



12-2014

Bound by Words: Oath-taking and Oath-breaking in Medieval Iceland and Anglo-Saxon England

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BOUND BY WORDS: THE MOTIF OF OATH-TAKING AND OATH-BREAKING IN
MEDIEVAL ICELAND AND ANGLO-SAXON ENGLAND

by

Gregory L. Laing

A Dissertation submitted to the Graduate College
in partial fulfillment of the requirements
for the degree of Doctor of Philosophy
English
Western Michigan University
December 2014

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Gregory L. Laing, Ph.D.

Western Michigan University, 2014

The legal and literary texts of early medieval England and Iceland share a common emphasis on truth and demonstrate its importance through the sheer volume of textual references. One of the most common applications of truth-seeking in these sources occurs in the swearing of oaths. Instances of oath-taking and oath-breaking, therefore, are critical textual loci wherein the language of swearing unites an individual's socially constructed reputation and his personal guarantees under the careful supervision of the community. Traditionally, scholars looking at truth and attestation from the later medieval period tend to view early cases of swearing as procedural, artless, or largely instinctive. In "Bound by Words," I examine the complexity and decisiveness of early swearing through a critical study of speech-act theory and by looking at law as a specific type of literature. Overall, this study of Anglo-Saxon and Icelandic texts brings together the major legal and literary sources to explore those moments when words attempt to guarantee action or when narratives focus on the contravention of that system. Such motifs invest language with the power to provide justice, yet these texts also demonstrate the potential for words to cause harm and thus treat them with appropriate caution. Ultimately, the project confronts this dependence on and apprehension toward swearing to demonstrate the critical ways that these legal and literary texts attempt to negotiate the power in and peril of trusting others.

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ACKNOWLEDGMENTS

I would like to acknowledge the countless number of individuals who have contributed to my education and to the pursuit of this degree, without any of whom I might never have been able to produce this dissertation. While I cannot mention everyone by name, I would like especially to thank a few people for their guidance, support, and patience with me as I labored to fully appreciate the details of oath-taking and oath-breaking. My committee chairperson, Dr. Jana K. Schulman, deserves my deepest thanks for her insightful suggestions and her tireless effort to inspire me with a heart-felt love of this subject. I also would like to thank her for first leading me to this topic during a wonderful seminar at the Newberry Library on the intersections of Anglo-Saxon law and literature, as well as in her subsequent Old English and Old Norse courses that continue to be among my fondest memories of my graduate school.

Additionally, I would like to thank Dr. Eve Salisbury for always being an inspirational example, whose expert wisdom I had the privilege of witnessing first-hand during the semester of working with her on the British Literature teaching practicum. Additionally I will never forget how Dr. Salisbury's seminar on medieval English literature helped me to realize not only the scope, but also the intellectual and linguistic depths of these indispensable texts. Dr. Paul E. Szarmach also deserves my gratitude for inspiring me to pursue the study of Old English. His seminar on *Beowulf*, co-taught with Dr. Schulman, still inspires me to ponder the nuances of translation and intensity of language. His numerous insights, especially those related to Anglo-Saxon homiletic and hagiographical texts, has been invaluable. Sincere thanks must also be

Acknowledgments – continued

given to Dr. Larry Hunt for his efforts as outside reader, his invaluable discussions with me over a variety of topics, and his genuine support as a colleague. I cannot thank the members of my committee enough for their contributions to my academic progress, or for their patience in working with me during this painstaking process.

Finally, I would like to thank my family for their love and support. My wife, Kim, continues to be my advocate and friend, whose unwavering support has made all of this writing possible. My daughter, Jordan, has always reminded me to strive to achieve something more out of my life. My parents, Charles and Diana, were influential in encouraging me to pursue my love of things medieval, and I am especially grateful to them for all of their many words of encouragement throughout this process.

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LIST OF ABBREVIATIONS

ASC	'Anglo-Saxon Chronicle'
ASE	<i>Anglo-Saxon England</i>
<i>Band</i>	<i>Bandamanna saga</i>
<i>Beo</i>	<i>Klaeber's Beowulf and the Fight at Finnsburg</i> , 4th ed.
BTS	<i>An Anglo-Saxon Dictionary Supplement</i>
DA	<i>Diplomatarium Anglicum Ævi Saxonici</i>
DI	<i>Diplomatarium Islandicum</i>
DOE	<i>Dictionary of Old English</i>
DOEWC	<i>Dictionary of Old English Web Corpus</i>
EETS	Early English Text Society
<i>Gen</i>	<i>Genesis</i> , ed. George Krapp.
<i>Gesetze</i>	<i>Die Gesetze der Angelsachsen</i> , ed. Liebermann.
<i>Grágás</i>	<i>The Laws of Early Iceland: Grágás</i> , ed. and trans. Dennis, Foote, and Perkins.
<i>Grett</i>	<i>Grettis saga Ásmundarsonar</i>
<i>Haralds Saga</i>	<i>Haralds Saga ins Hárfagra</i>
ÍF	Íslensk Fornrit
Jb	<i>Jónsbók. Kong Magnus Hakonssons Lovbog for Island</i> . Ed. Ólafur Halldórsson.
<i>Jónsbók</i>	<i>Jónsbók: The Laws of Later Iceland</i> , ed. and trans. Schulman.
JEGP	<i>Journal of English and Germanic Philology</i>
K	<i>Grágás. Islædernes lovbog i fristatens tid</i> , ed. Vilhjálmur Finsen.

<i>MED</i>	<i>The Middle English Dictionary</i>
<i>Njála</i>	<i>Brennu-Njáls saga</i>
<i>OEN</i>	<i>Old English Newsletter</i>
<i>OED</i>	<i>Oxford English Dictionary</i>
<i>St</i>	<i>Grágás efter det Arnamagnæanske Haandskrift</i> , ed. Vilhjálmur Finsen.
<i>Vkv</i>	“Völundarkviða,” eds. Gustav Neckel and Hans Kuhn
<i>Wan</i>	“The Wanderer,” eds. George P. Krapp and Elliott Van Kirk Dobbie.

CHAPTER 1

INTRODUCTION

Egill fram fjárheimtu, en Atli bauð logvorn í mót, tylfareiða, at hann hefði ekki fé þat at varðveita, er Egill ætti. Ok er Atli gekk at dómum með eiðalið sitt, þá gekk Egill mót honum ok segir, at eigi vill hann eiða hans taka fyrir fé sitt.¹

Egil brought forth a financial claim, and Atli offered a lawful defense against that charge, an oath of twelve, that he did not have in his possession money that Egil owned. And when Atli went to the court with his witnesses, then Egil met him and says that he will not take his oaths for his money.

Before taking the stand to begin testimony, a witness in any courtroom of the United States must place his or her right hand on the Bible and declare: “I solemnly swear that all the testimony I am about to give in the case now before the court is the truth, the whole truth, and nothing but the truth, so help me God.”² Most Americans, even those without first-hand experience of ever being in a courtroom, are familiar with the process and the purpose of this legal ritual as a safeguard for truthful testimony. Such understanding is amplified as the modern entertainment industry continues to draw upon the judicial world for storylines, especially in the form of popular, televised legal dramas. We understand that this performance is intended to ensure that the witness cannot conceal facts, substitute falsehood for reality, or provide only a portion of the testimony to thereby conceal the truth. When the witness places a hand on the religious text, this act also combines a moral imperative with the ethical appeal for truthful

¹ Sigurður Nordal, ed. *Egils saga Skalla-Grímssonar*, vol. 2 of *Íslensk Fornrit* (1933; reprint, Reykjavík: Íslenska Fornritafélag, 1988), p. 208. All translations, unless otherwise indicated, are the author’s own.

² *Benchbook for U.S District Court Judges* (Washington DC: Federal Judicial Center, 1996) 226. Although my example uses the Bible, recently the Qur’an has also been used as an acceptable religious text for legal oath-taking.

speech by means of referencing the religious commandments of a similar nature. Moreover, the court enforces the validity of sworn testimony through severe punishments for perjury while under oath. That the contemporary judicial oath requires so many components for it to be effective is a testament to the critical role of truth for the proper function of America's justice system. Because truth occupies such a cherished position in the law today, it is essential that veracity is protected as much as possible to maintain a stable social order. But a clear correlation between truth inside a courtroom and the theoretical construct behind swearing to tell the truth does not always exist, particularly when legal 'truth' is based on only what testimony and evidence assert is genuine. *Black's Law Dictionary* defines the disconnection existing between the courtroom and conceptual truth as 'legal fiction,' "an assumption that something is true even though it may be untrue."³ The reality that truth is easily susceptible to manipulations, however, falls far short of the ideal of the inviolate absolute that is necessary for the law to operate. As Ralph Keyes asserts in *The Post-Truth Era*, lies have "become part of the fabric of our lives, almost a necessity of social and professional life."⁴ Due to the ease with which language can be manipulated, it is necessary to have a way to bridge the gap between expectations and reality. The oath is an essential process that attempts to transform words into another intangible construct, "truth."

The passage above, taken from *Egils saga Skalla-Grímssonar*, offers an example of how a medieval author also employs legal rituals involving witnesses and oath-taking within the narrative. In this example, Egil takes up the legal case of his wife's inheritance, which the previous Norwegian king improperly prevented her from inheriting. As Egil returns to plead his

³ *Black's Law Dictionary*, ed. Bryan Garner, 9th ed. (Rochester: West Publishing, 2009), s.v. legal fiction.

⁴ Ralph Keyes, *The Post-Truth Era: Dishonesty and Deception in Contemporary Life* (New York: St. Martin's Press, 2004), p. 8.

claim for the money, the narrative offers legally relevant details to elaborate on the procedures for a claim to an inheritance. Those familiar with such cases would recognize that Atli's defense employs an oath of twelve, the strongest oath available and one typically reserved for the most serious crimes, to refute conclusively Egil's charge with overwhelming support from among the community. According to the earliest laws of Norway: *Nu mæla sva vattar veriandans. þar varoom vér sem þu vari. eigi var mundr gevenn til hennar at logmale. aura einum vat. þa er hinn af sinn male. Ef eði vitni semr l gegn. þa eigu þingmenn hanom arf at doma*,⁵ "If the witness of the defendant speak in this wise: 'We were there, as well as you, and the *mund*⁶ was not paid to her according to contract,' and if there is one more witness [to this man than to the other], the plaintiff has lost his case."⁷ Here the audience can surely recognize how Atli outmaneuvers Egil by trying to offer not only more witnesses than his opponent, but also by presenting the maximum number of witnesses ever required by the law. The effectiveness of Atli's attempt at exoneration is enhanced by the audience's common understanding of how these legal rituals and themes function, a common understanding only made possible by the availability of clear legal precedent, without which the literature could not utilize such casual references.

Just as this incident in the saga reinforces the expectations of how oath-taking should happen inside the courtroom, this episode will also demonstrate quite effectively how the abstract potency of legal regulations occasionally conflicts with the actual results of such oath-

⁵ R. Keyser and P. A. Munch, eds. "Den ældre Gulathings-Lov," in *Norges gamle lov indtil 1387*, vol. 1 (Christiania: Gröndahl, 1846), p. 54.

⁶ The *mundr* is a sum of money paid to the bride as her own personal property, and it represents part of the marriage ceremony that validates the relationship between husband and wife. This stipulation, that *mundr* had not been paid would represent a significant problem for any case involving inheritance. When the case of Egil's wife is first raised by her family, Arinbjorn attempts to answer concerns of Asgerd's legitimacy by proving that her mother is indeed a legitimate wife of her father.

⁷ Laurence Larson, trans. *The Earliest Norwegian Laws Being the Gulathing Law and the Frostathing Law* (Menasha, WI: George Banta Publishing, 1935; reprint, Clark, NJ: The Lawbook Exchange, 2008), p. 117.

taking. When Egil's mistrust of his opponent causes him to reject Atli's oath, despite Atli's certification of his claim with the greatest number of witnesses, it reveals that the the ability of the law to certify speech only carries the strength of the reputation of the individual making or receiving the oaths. This literary text, therefore, offers an interesting nexus of thought, expressing how oath-taking stands out as one of the most important forms of verbal expression available to members of Anglo-Saxon and Icelandic communities, while also serving to highlight the ways that law occasionally falls short of completing its expected function. Such highly regulated verbal exchanges make up a significant portion of the legal system in both cultures, regulating the presentation of legal charges, verifying the ethical intentions of litigants, and providing defense through witness testimony.⁸ These diverse roles given to oath-taking supplement a judicial system lacking the modern dependence on physical evidence in the determination of guilt and innocence, thus making spoken testimony, given under oath, the primary resource available for both prosecution and defense within medieval legal cases.⁹ Moreover, sworn oaths also serve a critical social component, ensuring the integrity necessary for important communication, providing a guarantee that only truthful statements will be given credence, and also providing every individual with access to that same level of credibility.¹⁰ Oaths presented during the process of a legal trial, however, are neither the only form nor venue of regulated and veritable speech in medieval Iceland and Anglo-Saxon England. Indeed,

⁸ See Andrew Dennis, Peter Foote, and Richard Perkins, eds and trans. *Laws of Early Iceland: Grágás, the Codex Regius of Grágás with material from other manuscripts*, 2 vols. (Winnipeg: University of Manitoba Press, 1980-2000), 1:85. See also the Laws of Alfred, the Laws of Hlothere and Eadric, and the Laws of Ine, Felix Liebermann, ed. *Die Gesetze Der Angelsachsen* (1847; repr., Halle: M. Niemeyer, 1903).

⁹ A noteworthy exception is found in the Laws of V Æthelstan 2, where the trail of cattle serves as the oath of accusation (*foráþ*) against the suspected thief.

¹⁰ Fredrick Pollock and Fredric Maitland, *The History of English Law Before the Time of Edward I*, vol. 1, 2nd ed. (1907; reprint, Cambridge: Cambridge University Press, 1968), p. 39.

both cultures are also dependent on such secondary forms of veracity as the pledge, the promise, the boast, and even the general declaration that a statement is the “truth.” The multitude of terms for honest speech in Old English and Old Norse, despite sharing a common connection with a general concept of honesty, does not necessarily imply equivalence between all of these words. Indeed, this is borne out by the fact that courtrooms do not allow witnesses to simply take the stand and speak under an implication of “truth.” It is only when testimony has gone through the complete process of oath-taking that it attains the credibility necessary for law.

Richard Firth Green’s linguistic study, *The Crisis of Truth*, considers oaths, pledges, and promises as interchangeable forms of the same truth for late medieval England. Semantically, the oath, pledge, and promise should have little distinction because the truth should function in absolute terms – “if the statement is true, then the speech must be factual.”¹¹ Comparative analysis, however, of medieval Icelandic and Anglo-Saxon legal and literary texts suggest that, despite shared dependence on the legitimacy of speech, a specialized hierarchy exists among the Anglo-Saxon and Icelandic vocabularies that separates the oath from other forms of honesty. Although all statements of truth inherently build upon an identical premise that what is said must necessarily correspond to reality, this assertion does not explain why so many different classifications develop in Old English and Old Norse to refer to this critical feature of social interaction. The differentiation between levels of honesty is due, in some measure, to the corresponding complexity of the process accompanying that speech, suggesting that oaths sworn with hands placed over religious objects in the presence of witnesses are necessarily elevated above those alternative forms of speaking truthfully which might lack such prescribed

¹¹ J. L. Austin, *How to Do Things With Words* (Cambridge, MA: Harvard University Press, 1975), p. 10.

conventions. If the oath actually functions as the most complex and potent form of expressing the truth, such a distinction raises questions about whether these additional forms are truly interchangeable, or if they act as discreet modes of truth that must be evaluated independently.¹² Because truth and the process of expressing honesty to others seems to be such a great concern for Anglo-Saxon and Icelandic society, a detailed study of this terminology is necessary to uncover how the conceptualization of truth has evolved within these medieval societies.

It is only with a greater understanding of this hierarchy of terminology that we can hope to understand the subtleties of the individual terms and their use in law and literature. Therefore, Chapter Two focuses on the linguistic and cultural heritage of the vocabulary associated with oath-taking and the etymological roots of and lexical differences between the terminology of swearing. Through that discussion, I demonstrate that the Anglo-Saxon and Old Norse-Icelandic languages contain an overt hierarchy of vocabulary that places the oath at the apex due to its procedural format and spiritual associations. Chapter Three furthers this concept by undertaking a comparative summary and analysis of the Anglo-Saxon and Icelandic laws employing these words to consider how the hierarchy of language associated with swearing functions within the legal texts of England and Iceland. This chapter also introduces a study of the laws designed to counteract manipulation of legal truth, which will be further explored in Chapter Four in the literary applications.

The fascination with oath-taking and oath-breaking among the Anglo-Saxons and Icelanders arises from the inherent complexities found in communication. All language relies

¹² See the problematic assertion that heroic boasting is equivalent to oath taking in Alan Renoir, "The Heroic Oath in *Beowulf*, the *Chanson de Roland*, and the *Nibelungenlied*." *Studies in Old English Literature in Honor of Arthur G. Brodeur*, ed. Stanley B. Greenfield (Eugene, OR: University of Oregon Press, 2001).

upon a complex understanding of representation to bridge the gap between concrete forms and their expressions. Works as early as Aristotle's *De Interpretatione*, an explanation of written and verbal communication, recognize the basic separation existent between "words, affectation of the soul, and actual things."¹³ Because written and spoken words do not correspond directly with the original objects or actions, the system of decoding language is dependent on context to aid in the transmission of meaning to others. More recently, the complex decoding of language involved in Speech Act Theory has become one of the predominant methods of pulling apart the meanings within statements.¹⁴ Language is capable of communicating multiple meanings because implicit social arrangements and contexts provide the socially-defined significance for each word.¹⁵ Communication becomes a process of translations as the signified object or action must be rendered into the conceptualized representation. For all communication, Speech Act Theory would indicate that each speech act is composed of three parts: the "act of saying something," also known as the locutionary act, "what one does in saying it," the illocutionary act, and "what one does by saying it," the perlocutinary act.¹⁶ As either written or spoken words, however, that process remains susceptible to the errors of miscommunication, poor word choice, or misinterpretation. Because the speech act itself does not absolutely necessitate behavior, actions based upon the trust of language are endangered by the mistaken credibility of false statements or by the misinterpretation of the speech act at any of its three levels.

¹³ Aristotle, *De Interpretatione*, trans. E. M. Edghill (Chicago: Encyclopedia Britannica Inc., 1982), p. 25.

¹⁴ Although seemingly indicating only verbalized language, *The Routledge Encyclopedia of Philosophy* indicates that, "the phrase 'speech act' should be taken as generic term for any sort of language use, oral or otherwise." See *The Routledge Encyclopedia of Philosophy* (New York: Routledge, 1998), s. v. "Speech Act."

¹⁵ W. J. T. Mitchell, "Representation," *Critical Terms for Literary Study*, Ed. Frank Letricchia and Thomas McLaughlin (Chicago: University of Chicago Press, 1995), p. 13.

¹⁶ *The Routledge Encyclopedia of Philosophy*, s. v. "Speech Act."

Speech-act theorist John Searle describes the process of verifying honesty in language as dependent on evaluative premises given for certain acts of expression. Searle writes: "I started with a brute fact, that a man uttered certain words, and then invoked the institution in such a way as to generate institutional facts by which we arrived at the conclusion...the whole proof rests on the appeal to the constitutive rule that to make a promise is to undertake an obligation, and this rule is a meaning rule of the 'descriptive' word 'promise'."¹⁷ This idea of undertaking an obligation is fundamental to the inclusion of swearing or promising in the Commissive category of Searle's five-part classification of illocutionary speech acts.¹⁸ By engaging in a Commissive speech act, the speaker has committed himself or herself to an action, at least in theory. Inscribing language with necessity of behavior only holds true, however, if those conventions ensuring actions will correspond with words are appropriately maintained by all parties involved. J. L. Austin classifies two major complications that can interrupt the process of speaking truthfully: either the speech is prevented from adhering to accepted forms, for example deviating from the formalized conventions, or else when speech is given an undeserved level of credibility although it lacks sincerity of the speaker.¹⁹ Dishonest behavior uses the latter model because the audience believes, at face value, that statements are accurate, despite the disingenuous intentions of the speaker.

Because language can potentially fail to necessitate appropriate behavior, trust in oath-taking is complicated by the ease oath-breakers have in exploiting the power of formalized

¹⁷ John R. Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge: Cambridge University Press, 1970), p. 185.

¹⁸ Hadher Hussein Abbood Ad-Darraj et al., "Offering as a Commissive and Directive Speech Act: Consequence for Cross-Cultural Communication," *International Journal of Scientific and Research Publications* 2.3 (March 2012): 298.

¹⁹ Austin, *How to Do Things With Words*, p. 16.

verbal exchange. Those with no compunction about words holding true to their actions have the power to manipulate the language of oath-taking to their own advantage. To return to Searle's process of verification, this attack on the evaluative premise that all promises must be upheld cripples the process of appraising declarative statements because words can no longer guarantee that action will follow speech. Under this interpretive model of language, trust that is broken once results in the complete breakdown of the entire process of matching words with deeds. The only answer to the exploitation of dishonesty is to invest language with something that the community can take away in retribution for abuse. It is useful to apply Pierre Bourdieu's idea of "cultural capital" because it can reveal how society can check those members who would attempt to threaten the social order. Bourdieu's theory outlines "greatness which is handed down (and grows, diminishes, or disappears) rather like capital but exists in the still untheorized form of *cultural capital*, a form of greatness that can never be totally objectified and that marks those who appropriate it for themselves in a legitimate and natural fashion, from interlopers whose pretensions to claim it are discouraged."²⁰ However, just as "the significance of any particular speech act category can only be fully understood in broader cultural context," the sources of cultural capital of any group will likely be unique.²¹ For the medieval world, and the system of oath-taking in question, this "cultural capital" comes in the form of personal reputation. Because Anglo-Saxon and Icelandic societies were founded on honor as an immaterial measure of status, attaching reputation to oath-taking offers something that can be revoked should an individual decide to violate the rules of honest speech. In order to fully explore the links between appropriate speech acts and their concomitant cultural capital, it

²⁰ Louis Pinto, "Theory in Practice," in *Bourdieu: A Critical Reader*, ed. Richard Shusterman (London: Blackwell Publishing, 1999), pp. 104-105.

²¹ Ad-Darraj et al., p. 298.

is simply not enough to rely on the legal codes available from this time period.²² The gradations of personal honor are too fine to be explicated in laws. Reading the literature of Anglo-Saxon England and Iceland allows us to explore the gray spaces between truth and lies in which cultural capital is won and lost.

As equally fascinating as the development of dependence on truthful speech is the interest of Anglo-Saxon and Icelandic writers in the thorny complexities of language that threaten to undermine the very systems reliant upon them. Ironically, those very problems that have the potential to complicate truth in speech are generated by the process of swearing. Despite representing the strongest form of offering honesty, the oath has the potential to grant duplicitous language the same legitimate status as fact.²³ The oath claims as its central goal the authentication of justice and defense of the innocent, but legal codes are filled with cautionary regulations²⁴ and literary texts also contain numerous examples of those who violate the standards of honesty.²⁵ While oaths promote a connection between personal honor and communal reputation, those bonds are ultimately legally protected by the exile of perjurers and the loss of reputation associated with the abuse of this system.²⁶ Although speech should be divided into one of two straightforward categories, either as truth or as falsehood, the oath

²² Additionally, legal speech depends on the law being interpreted literally and symbolically, invested with more meaning – requiring more cultural capital to produce. See further pp. 27 and 141.

²³ Keyes, *The Post-Truth Era*, p. 21.

²⁴ See, for example, *Grágás*, vol. 1, § 47 which requires witnesses to declare they have not taken money for their testimony and the Laws of II Edward 5, which levies fines against dishonesty.

²⁵ See, for example, the trouble caused by a deceptive person in “The Wife’s Lament,” as well as the disruption of justice caused by dishonest chieftains in *Bandamanna Saga*.

²⁶ See the Laws of Edward and Guthrum 11, where perjurers are exiled along with other undesirables. See also *Jónsbók* IX 22, which exiles perjurers to Norway for a period of 3 years and denies them further access to future oath-taking.

cannot unequivocally eliminate those grey areas where veracity is subject to manipulation.²⁷

For all of its success in binding words to truth, the oath is still vulnerable to dishonesty, and this weakness threatens to destabilize the integrity of the entire social system built upon the certainty of verbal legitimacy. Just as with swearing, there is no shortage of terminology associated with the breach of word and truth, ranging from such minor infractions as telling false-stories (OE *leásspell*, ON *lausyrði*) to those crimes of perjury and treason. As with statements of truth, this surfeit of vocabulary offers indications of the levels of severity between lies, with those considered more serious carrying stronger punishments than their less significant counterparts. Both perjury and treason are extremely dangerous because once they occur, all other transactions of swearing become subject to an equal level of suspicion by the injured party. Likewise, falsehood in legal and political negotiations attacks the critical bonds that allow for the proper function of social order and enforcement of behavior, the law courts, and figures of authority.²⁸ On the other hand, those speakers guilty of telling false-stories are subject to more lenient penalties, particularly when exaggeration and invention are expected of storytelling. Although Anglo-Saxon and Icelandic society clearly attempt to prohibit major forms of betrayal and lying through legal regulation and social pressure, not every instance of dishonesty is so clearly condemned by society. If lesser instances of prevarication go unpunished, the potential exists for larger abuses to also escape unnoticed or even be acclaimed as truth. Equivocal oaths, statements creating enough ambiguity to blur the distinction between truth and falsehood, allow too broad an opportunity for those speakers skillful enough to

²⁷ Austin, *How to Do Things With Words*, p. 137.

²⁸ The absence of royal authority in Iceland limits treason until after the island comes under Norwegian rule in 1262. The concept is present in several sagas involving royal figures, such as those in *Fornmanna Sögur* and *Heimskringla*.

deceive their opponents.²⁹ And while the spirit of such communication does not honor the ideals of truth, it comes as close as possible to the edge without technically contravening these principles. Because equivocal oaths still operate within the boundaries of acceptable speech, until their motives can be either confirmed or refuted, they are particularly hard to classify as honest or dishonest statements.³⁰ With the many examples of how easily an oath can be manipulated, altered, or broken, it is not surprising that both Icelandic and Anglo-Saxon sources pay particularly strong attention to truth and its manipulation by words. While simultaneously an essential resource used in the foundation of both cultures, swearing actually is proven to be a mutable and even dangerous feature. Thus, the laws of both Iceland and Anglo-Saxon England attempt to establish legal imperatives as the means to both define and protect the reliability of truth, and their literature can be viewed as a didactic tool showing the consequences of accepting falsehood as truth.

Chapter Four, therefore, delves into the processes by which legal rituals and the vocabulary of oath-taking used in the legal texts are fleshed out in the structure of the literary plots. Because these motifs concern both the parties participating in the swearing and the community in which the language is certified, I will highlight not only the implications for the speaker and audience, but also for society when these rituals become part of a literary narrative. At best, legal representations of oath-taking can provide only a narrow view into the actual use of oaths in Anglo-Saxon England and Iceland. They are limited to procedure and punitive measures without the benefit of substantial context or application. It is because of

²⁹ J. Childers, "The Dispersion of the Equivocal-Oath Motif," *Arv: Nordic Yearbook of Folklore* 36 (1980): 107 - 117. See also Ralph J. Hexter, *Equivocal Oaths and Ordeals in Medieval Literature* (Cambridge, MA: Harvard University Press, 1975).

³⁰ See Chapter 86 on the affair of Thorstein and Spes in *Grettir's Saga*, trans. Anthony Faulkes, *Three Icelandic Outlaw Sagas* (London: Everyman, 2001), p. 257.

these very limitations, though, that literature can be of most benefit. While generally not including the full, legal explanation of an oath-ceremony, the representation of oaths in literature shows both the reasons that oaths might be used and the reasons that they might fail. The juxtaposition of the laws presented in Chapter Three with their literary applications in Chapter Four help to create a more wholistic picture of oaths in Anglo-Saxon England and Iceland.

Before examining the mutual appreciation of oath-taking in Anglo-Saxon and Icelandic sources, we must acknowledge that these two societies share a cultural context appropriate to comparative study. These two societies have a long history of cross-cultural influence through both trade and military contact, as well as their mutual experiences with their conversion to Christianity, in which older pagan principles were put into direct competition with a new system of morality.³¹ All of these shared cultural values imply that not only are Anglo-Saxon and Icelandic societies joined by mutual concerns for the preservation of their communities, but they are founded on a common Germanic heritage, most visibly found in those linguistic similarities producing identical Old English and Old Norse grammatical structure, focus on metrical poetics, and cognate vocabularies.³² Both Old English and Old Norse-Icelandic texts are built around comparable literary themes, champion similar moral values, and also criticize unruly behaviors in corresponding ways. Because Anglo-Saxon and Icelandic perspectives regarding these cultural characteristics are so closely aligned, it is possible to interpret both

³¹ This cultural exchange is best found among the Anglo-Saxons in the provisions of King Alfred's treaty with Guthrum arranging baptism and settlement within the neighboring Danelaw; see *Gesetze*, 1:126. Related moments of interaction are also noted among Old Norse-Icelandic sources, such as the account of the service of Thorolf and Egil to King Athelstan; see Bernard Scudder, trans., "Egil's Saga," vol. 1 of *The Complete Sagas of the Icelanders*, ed. Viðar Hreinsson (Reykjavik: Leifur Eiriksson Publishing, 1997), p. 115.

³² Heather O'Donoghue, *Old Norse-Icelandic Literature* (London: Blackwell Publishing, 2004), p. 7.

cultures' literary works through a unified understanding of acceptable behavior.³³ It is expected, therefore, that those issues of foremost concern to Anglo-Saxon writers are also addressed in similar ways by Icelandic authors. The anxieties of these communities drive the production of texts, both literary and legal, as they attempt to highlight particularly troubling social problems. The way legal and literary texts address mutual themes can best be understood when considering an example from the legal text, the Laws of Alfred, that open with the directive that *æghwelc mon his að ond his wed wærlice healde*, 'every man should carefully abide by his oath and his pledge.'³⁴ Alfred's desire to tighten the laws regarding oath-taking is understandable in light of the tragedy recounted in the literary text of Asser's *Life of King Alfred*. According to the text, in 846 a Viking army made peace with Wessex and then, "practicing their usual treachery, after their own manner, and paying no heed to the hostages, the oath and the promise of faith, they broke the treaty, killed all the [hostages] they had, and turning away they went unexpectedly to another place."³⁵ The literary record of this betrayal, despite both hostages and oaths exchanged with the Danes, underscores the social crisis of oath-breaking that the subsequent law attempts to rectify. Asser's literary and Alfred's legal text both serve as warnings should the danger of oath-breakers, particularly those Viking raiders who threaten to destroy Wessex, be allowed to go unpunished. It is not surprising that the legal and literary texts work simultaneously to present the dangers of broken oaths, because "law and literature

³³ Michael Lapidge, "The Comparative Approach," in *Reading Old English Texts*, ed. Katherine O'Brien O'Keeffe (Cambridge: University of Cambridge Press, 1997), p. 23.

³⁴ Ælfred 1, *Gesetze*, 1:46.

³⁵ Simon Keynes and Michael Lapidge, ed and trans. *Alfred the Great: Asser's Life of King Alfred and Other Contemporary Sources* (London: Penguin Books, 1983), p. 83.

have always lived together, trespassed on, and infiltrated each other.”³⁶ The legal and literary commonalities between Old English and Old Norse-Icelandic sources, therefore, are worthy of careful observation for the analogous efforts they reveal regarding the legitimization of socially acceptable values and the systematic suppression of those disruptive practices. Alfred’s stronger law regarding the maintenance of oaths is made more relevant when it is placed within the context of the Viking invasions and betrayals, providing this legal code with a social and historical background that informs its enforcement among the Anglo-Saxons. Fully appreciating literature requires understanding of the various social issues pertinent for that time,³⁷ a strategy that can be applied equally well to interpretations of why certain laws are enacted or revised for a historical period. Robin West writes: “By reading these jurisprudential stories systematically and critically *as stories*, we may achieve a richer understanding of the philosophical arguments they are meant to convey.”³⁸ Indeed, the law operates so much like narrative that it is open to the very process of reading and interpretation that drives literary study.

Among the many shared principles that regulate behavior in both Anglo-Saxon England and Iceland, the ideals of the heroic code, expressed most fully within the literary texts, are particularly relevant in defining masculine conduct. These warrior cultures placed specific emphasis on the ability of the individual to develop and defend the ideals of courage, integrity, and honor critical to participation within the larger social sphere.³⁹ The most basic element of

³⁶ Patrick Hanafin, Adam Gearey, and Joseph Booker, *Law and Literature* (Oxford: Blackwell Publishing, 2004), p. 1.

³⁷ Katherine O’Brien O’Keeffe, “Heroic Values and Christian Ethics,” in *The Cambridge Companion to Old English Literature*, ed. Malcolm Godden and Michael Lapidge (Cambridge: Cambridge University Press, 1991), p. 107.

³⁸ Robin West, *Narrative, Authority, and Law* (Ann Arbor: University of Michigan Press, 1993), p. 409.

³⁹ Preben Meulengracht Sørensen, “Social Institutions and Belief Systems of Medieval Iceland and Their Relations to Literary Production,” in *Old Icelandic Literature and Society*, ed. and trans. Margaret Clunies

the Germanic heroic code, the *comitatus*, is a band of warriors reliant on those relationships of fidelity when fighting as a unified group.⁴⁰ Every participant in this system is required to uphold the standards of moral responsibility necessary to ensure the survival of the war-band, from sharing of treasure to courageous performance on the battlefield. The gnomic literary pieces that describe the expected natural and social order of the world explicitly define the position of the warrior within the larger context of the cosmos by characterizing what behaviors are acceptable or expected, particularly when considering how an individual's actions relate to his or her speech.⁴¹ In line 10 of "Maxims II" the poet places *soð*, "truth" in the same line as *sinc*, "treasure" as an indication of how important both are for the warrior group. Without treasure and the men attracted by these gifts, the leader of the *comitatus* cannot expect success in battle, just as he cannot survive without truth and the trust that it provides for his warriors. Likewise, the Old Norse-Icelandic poem *Hávamál* also notes the important place that truth has among the community of warriors. In the second half of stanza forty-two, after a long discussion of the necessity of repaying gifts to friends, the poem's speaker advises that *hlátr við hlátri scyli hölðar taca, / enn lausung við lygi*, 'a man should give laughter for laughter, but return lies for deception.'⁴² The poem clearly shows that it is only permissible to lie after the other party damages his own honor by lying. Additionally, the individual's moral responsibilities

Ross (Cambridge: Cambridge University Press, 2000), p. 21.

⁴⁰ Joseph Harris, "Love and Death in the *Männerbund*: An Essay with Special References to the *Bjarkamál* and the *Battle of Maldon*," in *Heroic Poetry in the Anglo-Saxon Period*, ed. Helen Damico, Jess Bessinger, and John Leyerle (Kalamazoo, MI: Medieval Institute Publications, 1993), p. 100.

⁴¹ *Hávamál*, ed. David A. H. Evans (London: Viking Society for Northern Research, 1986), p. 47; "Maxims I," George Philip Krapp and Elliott Van Kirk Dobbie, *The Exeter Book* (New York: Columbia University Press, 1941), p. 156; and "Maxims II," ed. Elliott Van Kirk Dobbie, *The Anglo-Saxon Minor Poems* (New York: Columbia University Press, 1942), p. 56.

⁴² *Hávamál*, stanza 42.

are outlined by frequently coupling appropriate behavior with an increase in personal integrity and honor. In a similar way, this heroic value system encourages activities associated with courage in battle, sharing with fellow members of the social group, and upholding the correspondence of words with deeds. This poetic construct then serves to replicate what we know of performative behavior outlined by the legal system and its role in validating truth.

With such a strong emphasis on the individual's relationship to the collective unit, this behavioral code is particularly integral to the understanding of how Anglo-Saxon and Icelandic attitudes are shaped regarding the communication of the truth. While these standards of conduct permit warriors to conform to and enforce acceptable behavior roles, these social codes also recognize and attempt to prevent actions harmful to the community of warriors. Cowardice on the field of combat, greed with one's possessions, killing outside of appropriate circumstances, and especially dishonesty are all censured by the heroic code.⁴³ Along with these other transgressions, false language undermines the integrity of the *comitatus* by fostering distrust and fear when absolute trust of comrades is most critical in battle. In order to prevent the spread of any contamination to the credibility of oaths, the warrior ethos of Anglo-Saxon and Icelandic communities chastises those guilty of such crimes with the threat of infamy in order to staunch the erosion of social order. Thus, the role of the heroic code in the glorification of idealized warriors following social conventions and the chastisement of those who transgress these conventions is implicitly linked to the continuous struggle for both Anglo-Saxon and Icelandic cultures to regulate verbal presentation of the truth found in oath-taking.

In addition to a strong connection to heroic codes, the oath in Anglo-Saxon and Icelandic culture is also clearly tied to an importance placed on family as the most significant source of

⁴³ See, for example, the critique of Godric's cowardice in "The Battle of Maldon."

support for an individual. For many characters in Old English and Old Norse-Icelandic literature, lineage is what provides them with the cultural capital necessary to earn their own reputation.⁴⁴ Just as heroic ideals dictate the expectations of proper conduct in battle, the family ties of kin-groups offer another way to reward allowable actions and restrain objectionable ones. Family units and their collective reputations require protection, so logically the most powerful members of those groups seek to minimize dishonorable practices and increase the performance of praiseworthy ones. Familial relationships play a significant role within the system of oath-taking by joining the microcosm of one individual's reputation for honesty to the larger macrocosm of status for the entire group. Anglo-Saxon and Icelandic laws frequently require defendants to provide additional attestation of an oath through compurgatorial witnesses, and the accused undoubtedly turned to members of his or her family for support. As Katherine Drew comments: "Only by membership in a family could an individual be assured of sufficient strength to bring his offenders before the courts in order to receive justice; only by membership in a family could he be certain of having sufficient oath-helpers to support his oath in court."⁴⁵ Furthermore, the cultural capital available to the entire community could be significantly diminished by false oaths. The laws of Iceland and Anglo-Saxon England prohibit anyone convicted of perjury from making use of oaths in future cases, and this punishment destabilizes the entire kin-group if guilty of supporting a deceitful relative.⁴⁶ Just as with the

⁴⁴ This is especially true for saga narratives, such as *Egil's Saga*, which deliberately address patrimony in order to set up the heroic lineage of the protagonist, thus providing him with a standard against which his actions can be evaluated.

⁴⁵ Katherine F. Drew, *Law and Society in Early Medieval Europe* (London: Variorum, 1988), p. 35. Originally published in the article "Legal Materials as a Source for Early Medieval Social History," *Rice University Studies* 60.4 (1974): 33-43.

⁴⁶ See *Grágás*, 1:75 and also I Eadweard 3. *Gesetze*, 1:140.

process of feuding, the most important form of external threat to family honor,⁴⁷ compurgation pulls the entire family unit into the conflict and jeopardizes the essential social bond holding together the community. The violence of the feud, if left unchecked, necessitates retaliatory killing that destroys entire families. While less physically destructive, complicity in oath-breaking possesses the same devastating potential to erode the entire base of an individual's support by associating the kin-group with tainted language. Once incurred, the reputation of oath-breaking cannot be undone and calls into question the honesty of each member of the family, making all speech suspicious. Moreover, when the family facilitates the false oath standing for legitimate speech, they encourage the escalation of future dishonesty as other parties attempt to perpetuate similar fraud in support of their own cause. While the result of unregulated feud is the death of an entire community, the ultimate end for oath-breaking is no less destructive for the population when all language is mistrusted in legal matters. Because feud and oath-breaking draw the entire family group into a complex and self-damaging system, both Anglo-Saxons and Icelanders attempt to regulate these family activities through laws aimed at preventing the proliferation of social disorder inherent in both actions. Because the family group serves as the basic unit of support for both Icelandic and Anglo-Saxon culture, it is not surprising that the careful maintenance of the family reputation is the responsibility of its members, both through the support of oath-taking and in the preventative regulation of dishonesty. It is evident that both societies actively seek ways in which they can maintain social stability through the mitigation of dangerous behavior and dangerous speech acts. Thus, these two cultures provide the opportunity for exploration of the evolution of oath-taking as it occupies such a pivotal role in Iceland and England.

⁴⁷ William I. Miller, "Choosing the Avenger: Some Aspects of the Bloodfeud in Medieval Iceland and England," *Law and History Review* 1.2 (1983): 162.

The study of that evolution is picked up in Chapter Five as I attempt to show how the differences between literary and legal uses of sworn language eventually result in the changes seen by Richard Firth Green in his work *A Crisis of Truth: Literature and Law in Ricardian England*, in which he seeks to understand how challenges to honesty develop in England's legal and literary narratives after the Anglo-Saxon and early Icelandic periods. Despite the apparent differences between the purposes of the legal narratives, to seek regulation and control of oath-taking, these expressions serve as excellent points of literary tension and societal caution when oath-taking fails. Therefore, it is only through the careful study of both types of sources that a complete picture appears.

CHAPTER 2

TRACING THE PATHWAYS OF TRUTH

An Etymological Analysis of the Vocabulary of Sworn Language

*Leóf, hwonne bið ángu spæc geendedu, gif mon ne mæg nówðer ne mid wed ne mid áða
geendigan?*

*Sir, when will any claim be ended, if one might end it with neither vow nor oath?*⁴⁸

The tenth-century anonymous letter to King Edward the Elder concerning an estate at Fonthill also includes the plaintive question above, asking how the judicial system of the Anglo-Saxons could survive without sworn language. The unknown author substantiates the power of swearing throughout the letter, even recounting how his own testimony has been confirmed. He also notes that a collapse of legal attestation would mean failure to bring legal charges, to hear testimony of witnesses, and ultimately to hasten the demise of the entire legal system. This letter reflects an acute awareness that the chaos resulting from a world without guarantees might spread quickly, undermining the law and breaking those bonds responsible for holding society together. It is not surprising that the author includes such an affirmative view of asseveration, as the process is mentioned numerous times in those points of controversy surrounding the Fonthill estate. The previous owner of the land, Helmstan, is charged with cattle theft, and in the course of his efforts to deny the accusation his word is proven to be false. This perjury costs Helmstan his property, and it also results in the king declaring him a fugitive. More importantly, however, Helmstan's attempt to manipulate truth also casts suspicion on his earlier

⁴⁸ Anonymous, *Diplomatarium anglicum aevi saxonici*. Ed. Benjamin Thorpe (London: Macmillan, 1865), p. 172. The translation included here is not Thorpe's, but the author's own. See also Simon Keynes, "The Fonthill Letter," in *Words, Texts and Manuscripts: Studies in Anglo-Saxon Culture Presented to Helmut Gneuss* (Cambridge: D. S. Brewer, 1992), p. 76. All translations are mine unless otherwise noted. Keynes suggests an alternate reading of *mid feo ne mid aða* "neither with money nor with an oath" for the unclear manuscript passage.

agreement with the anonymous author of the letter regarding both the property and the original lawsuit for which the author provided testimony on Helmstan's behalf. One moment of dishonesty taints the companions of the perjurer with the suspicion of a similar guilt and jeopardizes the integrity of any previous exchanges. While the Fonthill document presents an example of how swearing should work in a practical sense, it further illustrates the complexity and risks inherent in these exchanges.

What is most interesting about the account of the Fonthill letter, and especially the episode with Helmstan, is the way the anonymous author of the letter highlights more than one type of sworn language. The writer describes the dangers as not only a challenge to the oath, but also specifically mentions the threat to the pledge as well.⁴⁹ Since the composer of the Fonthill missive is versed in the practical legal application of swearing and the ramifications of perjury, his inclusion of more than one form of sworn speech is worthy of further consideration. Initially, one may be tempted to regard the oath and the pledge as two identical forms that operate interchangeably as the guarantor of language. Yet, the author of the Fonthill letter deliberately juxtaposes these two words in parallel, *ne mid wed ne mid áðā* "neither with pledge nor with oaths." This syntax would suggest that should one form no longer be available, the other might provide an equivalent, although distinct, venue through which the community can guarantee veracity. The phrase also echoes that found in the legal codes, particularly King Alfred's, mentioned subsequently in the letter.⁵⁰ Those two distinct forms of swearing identified as critical to a sustained judicial process raise larger questions of how one type of sworn statement can be distinguished from the other. If both the oath and the pledge are critical for

⁴⁹ Even the alternate reading suggested by Keynes does not change the implication of threat, as pledges would require similar collateral.

⁵⁰ The phrase *að ond wedd wærlice healde*, "abide carefully by his oath and pledge" appears in four Anglo-Saxon law codes: Alfred 1,1; V Æþelred 22,2; VI Æþelred 28; and I Cnut 19,1.

the defense of a legal case, then it is necessary to explore what particular features separate these two forms. Likewise, it is also worth considering why the anonymous writer chose to omit other varieties of swearing from his correspondence with King Edward. The Fonthill example demonstrates the revered connection linking truth and words inexorably to our understanding of the range of swearing, the intricacies involved in crafting these exchanges, and those limitations that impede this fundamental practice. Only through a comprehensive study of the intricacies of swearing can we hope to elucidate the issues surrounding honesty and dishonesty among the Anglo-Saxon and Icelandic people.

The purpose of this chapter is to analyze the legal and literary texts of Iceland and Anglo-Saxon England in order to determine what forms of sworn language were available and how distinctly each of these differs from another in respect to its potency and importance, thereby establishing a hierarchy of swearing. But tracing the development of sworn language is not a straightforward undertaking; rather it requires meticulous effort in compilation, definition, and evaluation in order to establish the body of swearing terminology available to Anglo-Saxons and Icelanders. Only a systematic study into the origins, variant forms, and the meanings of these words can allow for an assessment of the usage of sworn language throughout the corpus of extant Anglo-Saxon and Icelandic sources. This investigation, moreover, highlights the influence of swearing on the legal and literary foundations of both cultures. A comparative philological approach to this vocabulary juxtaposes Old Norse and Old English conceptualizations of verbal guarantees in order to render a quantifiable hierarchy of asseverations in terms of both frequency and influence. The relationship of the dialects themselves justifies this dual-language study of swearing. The resemblance of many Old English words to commensurate forms in Old Norse, enhanced by the presence of loan-words traced to Viking settlement in the Danelaw and other loci of interchange, reveals an integral association

between these two languages.⁵¹ As the Icelandic author of *Gunnlaugs Saga Ormstungu* notes about pre-Conquest England, *ein var þá tunga á Englandi sem í Nóregi ok í Danmorku*, “in those days, the language in England was the same as in Norway and Denmark.”⁵² Comparing the language of swearing used by Icelanders and Anglo-Saxons for similarities and differences provides this chapter with a more detailed understanding of how critical these activities were to their respective cultures. In addition to looking across linguistic boundaries, this comparative study also facilitates consideration of how these various forms operate in relation to the other types of sworn language available. The search for interrelation and dependence is instrumental for generating the categories that differentiate discrete modes of sworn language, disambiguating a centralized conception of truth into specialized units. Insofar as is possible, a basic etymological background of the vocabulary of swearing provides the foundations for tracing the distinctions of these expressions and suggesting different levels of importance among them. Thus, consideration of the linguistic development of the vocabulary of swearing provides an essential background for later discussion of the legal and literary examples, as well as a context for how language is expected to provide guarantees for behavior.

Given the importance placed on behavior as a reflection of personal reputation by both Anglo-Saxon and Icelandic culture, an abundance of terminology associated with concepts of truth and dishonesty is not surprising. Indeed, the greatest obstacle to a study of swearing is the unwieldy and nebulous body of words associated with veracity and deception. Although the *Thesaurus of Old English* is a strictly modern resource, one not available to Anglo-Saxon readers,

⁵¹ See Sara M. Pons-Sanz, *Norse-derived Vocabulary in late Old English Texts: Wulfstan's Works* (Odense: University Press of Southern Denmark, 2007).

⁵² Sigurður Nordal and Guðni Jónsson, eds. *Gunnlaugs Saga Ormstungu* in *Borgfirðinga sögur*, vol. 3 of *ÍF* (1938; reprint, Reykjavik: Íslensk Fornritafélag, 2001), p. 70.

its entries relating to sworn language demonstrate how significant the concept of honesty was for speakers of Old English. The *Thesaurus of Old English* lists no fewer than one hundred and twenty-nine individual nouns, verbs, and adjectives connected to swearing under the categories of both “Law and Order” and “Social Interactions.”⁵³ If a comparable quantity of words exists for speakers of Old Norse, this presents a body of language too ponderous for effective study without voluminous analysis. Tracing original meanings back to Germanic roots helps to reveal the addition of new meanings, shifts in usage, and the decline in usage for terms that fall out of circulation within the vocabulary of swearing. Only a carefully selected linguistic examination can break down these expressions into component parts, thus creating useful categories to yield a reliable system for understanding the nature of swearing. Until such time as an exhaustive examination is available, a semantic analysis of the expressions of swearing most significant to Icelandic and Anglo-Saxon societies can best provide the method by which the early medieval forms of swearing covered here can be compared with later medieval texts. The results of such a semantic analysis allow us to understand the conceptions of “truth” and thus make possible the analysis of how the meaning has shifted and how the categories of sworn language have changed throughout this period of European history. In fact, Richard Firth Green notes that as a keyword, “truth” conceptually still undergoes development well into the later medieval period in England.⁵⁴ Once we have established the vocabulary of swearing, it is possible to determine how legal rituals develop around those terms and then to understand how those rituals become the motifs used by writers of the literary texts.

⁵³ *A Thesaurus of Old English*, ed. Jane Roberts, 2 vols. (London: Kings College London Center for Late Antique and Medieval Studies, 1995), pp. 574 and 623.

⁵⁴ Richard F. Green, *A Crisis of Truth: Literature and Law in Ricardian England* (Philadelphia: University of Pennsylvania Press, 1999), p. 8.

I will explore the usage of three distinct types of sworn language in Iceland and Anglo-Saxon England: the oath, the pledge, the vow, and the “truth.” Each of these categories corresponds to groups of nouns that share meaning and are likewise based on a distinct procedure for determining the veracity of speech. These procedures involve varying levels of complexity and are therefore arranged from the most regulated, the oath, to the least restrictive category of speech, the assertion of “truth.” Furthermore, because a significant number of compound nouns in both Old English and Old Norse are created by affixing modifiers to a foundational noun, each category includes such constructed forms within their appropriate conceptual group.⁵⁵ For example, the oath of brotherhood, *eiðbróðir*, specifically regulates two individuals who wish to bind themselves into a special relationship, yet despite this narrow application such an expression is still an oath, *eið*, which is regulated by the same guidelines of oath-taking. Such specialized subcategories of swearing fall within the three major categories outlined by this dissertation, yet their distinctive features set them apart from the other conventional forms within the same category. The value of including the range of potential expressions derived from compounding is that it guarantees these three categories will provide a comprehensive overview of sworn language. Additionally, some of these specialized forms within the three categories merit discussion in their own right to denote their unique functions. For example, when considering the larger category of the pledge, we must acknowledge the distinctions that set apart vows as a particular type of pledging. As a subset of the pledge, the vow serves to distinguish those instances invested with a higher level of solemnity or spiritual significance than the typical pledge, yet not deviating so dramatically as to require an additional

⁵⁵ For an in-depth grammatical analysis of noun compounding in Old English, see Karl Heinz Wagner, *Generative Grammatical Studies in the Old English Language* (Heidelberg: Julius Groos, 1969) p. 247. For a discussion of Old Norse compounds, see Jan Faarlund, *The Syntax of Old Norse* (Oxford: Oxford University Press, 2004), p. 64.

category. The list of major categories begins with the oath, a formalized invocation of truth that also displays the largest number of specialized compound words. I have organized these compounds into categories based on how the expression is delivered, before whom it was given, and what specific purposes it served.

The Oath

The oath, taken before witnesses and following a carefully prescribed protocol, represents the most complex of all of the expressions that attest to honesty. The oath embodies an articulation of integrity not available to any other form of swearing, and this specialized characteristic explains its recurrent usage throughout the medieval world and its exceptional structure for ensuring honesty. Indeed, the ubiquity of the oath is a testament to its status as the most meaningful form of swearing, and a myriad of cultures beyond the Anglo-Saxons and Icelanders value the oath as a critical means of expressing truth. The *Oxford English Dictionary* defines the oath principally as “a solemn or formal appeal to God, or to a deity or something held in reverence or regard, in the witness of the truth of a statement, or the binding character of a promise or undertaking.”⁵⁶ The Latin cognate *iuramentum*, which also signifies swearing an oath by means of a procedural confirmation of honesty, further reflects a ritualized and spiritual component to the oath. *iuramentum* and its associated verb *iuro*, “to attest or call to witness,” both originate from *ius*, the noun meaning “justice, right, or law” as the expression of socially obligatory behavior.⁵⁷ Not unexpectedly, divinity frequently plays a significant role in enforcement and administration of justice. This adaptation of legal process is an attempt to mitigate what Bourdieu acknowledges as a limitation on legal language, in which the “content of

⁵⁶ *The Oxford English Dictionary*, s.v. oath.

⁵⁷ Charlton Lewis and Charles Short, *A Latin Dictionary* (1879; reprint, Oxford: Clarendon Press, 1996), s.v. jus.

the law which emerges in the judgment is the product of a symbolic struggle between professionals possessing unequal technical skills and social influence...as symbolic weapons, to win their case.”⁵⁸ Therefore, the English and Icelanders include spiritual consequences for violations to underpin expectations of behavior. The oath, therefore, exists at the intersection not only of a legal structure dependent on truth, but also a system of morality guided by the principles of religious understanding. Thus, the oath becomes a self-referential acknowledgment of veracity designed, through its spiritual component, to ensure conformity between speech and reality.

Based on the use of the oath in the judicial system and other critical social environments, the word not surprisingly also denotes “the form of words in which such a statement or promise is made.”⁵⁹ The oath, more than any of the other classifications of swearing, relies on the prescriptive language and the expected potency of the commissive speech act to ensure uniformity and adherence to a standardized expectation of how this type of sworn language will function. The oath’s dependence on restrictive language, scrutinized phrasing, and a formulaic structure offers little room for concession to how this category of sworn language is delivered. Such uniformity ensures that criminals should have difficulty abusing oath-taking, given the ease of spotting those speakers who deviate from the structure prescribed by law. Consistency of form also accounts for the increased usage of the oath in situations where the risk of exploitation or deception is the most dangerous, such as testimony in legal situations. The oath depends on exchange, a feature integral to both the pledge and the vow as well, to assure that any violations of the integrity of swearing receive an appropriate penalty. While

⁵⁸ Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” trans. Richard Terdiman, *The Hastings Law Journal* 38 (July 1987): p. 827.

⁵⁹ *The Oxford English Dictionary*, s.v. oath.

monetary surety is frequently attached with the pledge or vow, the heightened religious nature of the oath requires collateral of a higher value, most commonly including intangible aspects such as spiritual wellbeing and social reputation. Although the risk of financial loss from the confiscation of a pledged surety provides a certain level of incentive for conformity to truth, pecuniary consequences offer only limited deterrence, especially in cases where an individual does not place high value on physical property. The loopholes created for those with the financial means to circumvent penalties for dishonesty are ideally closed, however, with the focus on spiritual and social punishments incorporated into the oath. Irreversible damage to either an individual's honor or the security of his or her soul exacts a more rigorous and inescapable penalty than plain financial reprisal for abuse of the truth; and in this respect the oath represents the perfect combination of religious ritual and legal enforcement, ensuring that it remains the most secure form of sworn language. Thus, the dominance of the oath as the supreme form of sworn speech is confirmed through both its independence in asserting truth without corroboration of outside parties, and its use of more austere and more lasting punishments to certify integrity.

In addition to a strong emphasis on the social or spiritual consequence, procedural phrasing, and an increased role for the divine, oaths also place a heightened significance on gesture as it relates to the performance of swearing. While joining hands is an activity typically associated with making a pledge, the oath also involves traditions that highlight the importance of a speaker's hands during the process of swearing. This body language is especially relevant for the judicial oath where the hand is placed over a religiously significant object while swearing, a feature that remains even within modern legal oaths.⁶⁰ Such a gesture serves to tactilely join

⁶⁰ Although a Bible, as the standard religious text, may serve as the object frequently used during swearing, any physical item with a spiritual significance can be used to link the oath-taking to a spiritual

the individual speaking with the instrument of enforcement, and this process guarantees that the speaker is aware of the consequences of abusing the oath. Someone swearing upon a religious object thus distributes the responsibility for detecting and punishing perjury so that enforcement falls not only to those individuals presently hearing the oath, but also to the spiritual power of the one whose objects are being used. The inescapable nature of spiritual punishment, therefore, extends the threat of penalties for those who are not physically apprehended during the process of lying.

The significance of gesture to the act of oath-taking is not found exclusively within the judicial oath, and many other forms of the oath also recognize the symbolic significance of physical positioning. Much like judicial oaths, oaths expressing loyalty to others place emphasis on the non-verbal significance of body language. The idealized image of medieval fealty, for example, typically positions the kneeling oath-taker to appear subordinate to the individual receiving the oath.⁶¹ Likewise, the hands of the one swearing are placed inside the hands of the individual accepting the oath, thus symbolically placing the ability to act within the control of the other. By positioning both the body and hands in ritualistic fashion, the language of the oath of loyalty is confirmed through physical action.⁶² Thus, the physical gestures silently affirm

source. For example, pre-Christian Icelandic temples are recorded as using a golden ring dedicated to a specific deity for swearing, while Christians also employed relics or penitentials in place of the Bible.

⁶¹ While the iconic image of the knight kneeling before the king to swear fealty is illustrative of the significance of gesture for the medieval oath, this image cannot be universally applied to Anglo-Saxon and Icelandic culture. Patrick Wormald notes of the Anglo-Saxons: "In the early period, there is no good evidence that oaths were sworn either to lords generally or to kings specifically: the warrior's loyalty to his lord arose from the latter's generosity, not from any ceremonial pledge." See *The Blackwell's Encyclopedia of Anglo-Saxon England*, s.v. oath. Likewise, as a community without royal control during its early history, Iceland also lacks the need for such ritualized social exchanges.

⁶² See Marc Bloch, *Feudal Society*, trans. L. A. Manyon (Chicago: University of Chicago Press, 1961), p. 146.

the authority of the oath by forcing the speaker's conformity to ritually expected motions and physically depicting the power dynamics central to the process of swearing.

In addition to ritual and gesture as noticeable signs of its importance, a majority of the characteristics that define the oath as the chief level of sworn language are reflected within the etymological background of the word. The Old English *áp*, a noun phonetically identical to its modern descendent, is tersely defined by the *Dictionary of Old English* in its primary meaning as “an oath,” as is the Old Norse *eiðr*.⁶³ The meaning of “an oath” is further explicated through the Indo-European root, *oito-*, which is connected to the Old English *áp*.⁶⁴ More about the oath's unique nature, however, is revealed by the relationship existing between *oito-*, meaning “oath,” and the past-tense form of the Indo-European verb **ei-*, meaning “went.”⁶⁵ The sense of completed motion derived from the Indo-European verb further enhances the ability of the oath to testify to the legitimacy of actions concluded in the past. While the etymological connection to the past-tense form of **ei-* endows the oath with an effective means to affirm veracity of prior actions, this sense of completed action significantly limits the ability of the oath to affirm the truthfulness of future intentions. The solution to this temporal impediment is found in the Gothic term **aips*, a word etymologically related to both the Indo-European *oito-* and the Old English *áp*, as well as the Old Norse *eiðr*, which provides additional information about the capability of the oath to convey truth into the future.⁶⁶ According to the entry in *A Gothic Etymological Dictionary*, **aips* inherits the senses of both an established “course” and ultimately

⁶³ *Dictionary of Old English*, s.v. *áp*. *An Icelandic-English Dictionary*, s.v. *eiðr*.

⁶⁴ *The American Heritage Dictionary of Indo-European Roots* (Boston: Houghton Mifflin, 2000), s.v. *oito-*.

⁶⁵ *Indogermanisches Etymologisches Wörterbuch*, ed. Julius Pokorny (Bern: A. Francke, 1959), s.v. *ei-*.

⁶⁶ *Altnordisches Etymologisches Wörterbuch*, ed. Jan de Vries (Leiden: E. J. Brill, 1957), s.v. *eiðr*.

“fate” from its Celtic and Germanic roots that allude to the oath-taker’s act of walking between pieces of slaughtered animals while swearing.⁶⁷ Linking the oath with the idea of a predetermined outcome of actions endows the speaker with the means to validate truth across the entire spectrum of time. Indeed, the Germanic belief that the course of humanity is unavoidably dictated by an appointed destiny seamlessly corresponds with the position that a suitably sworn oath has the power to guarantee the speaker’s impending behavior.⁶⁸ Thus, the *áp* for the Anglo-Saxons and the *eiðr* for the Icelanders provide the strongest means available for attesting to truth because they are not limited in their ability to represent the integrity of language and they are linked to broader Germanic views regarding cosmology and the fate of the individual. The relationship between the Icelandic and Anglo-Saxon terminology suggests that both cultures valued the oath for its ability to convey the truth with an appropriate level of solemnity and authority. The deeply religious bonds created by the *eiðr*, just as with the *áp*, are symbolically expressed during swearing by the individual connecting with the religiously significant objects, especially relics, used within this process.⁶⁹ Increasing the intrinsic spiritual

⁶⁷ *A Gothic Etymological Dictionary*, ed. Winfred P. Lehmann (Leiden: E. J. Brill, 1986), s.v. *aiþs. Biblical reference to the use of slaughtered animals in the process of swearing can be found in Genesis 15:10, when Abram seals his covenant with God by cutting the sacrificial animals in half.

⁶⁸ The controlling nature of fate is a belief common to both Anglo-Saxon and Icelandic culture, as expressed by the noun *wyrd* in Old English and *urðr* in Old Norse. The statement made in line 455 by Beowulf that *gæð a wyrd swa hio scel*, “fate always goes as it must,” echoes the passage from Snorri’s *Gylfaginning* which states: *ok ór þeim sal koma þrjár meyjar þær er svá heita: Urðr, Verðandi, Skuld. Þessar meyjar skapa monnum aldr*, “and from that hall come three maidens who are called: ‘Fate,’ ‘Happen,’ and ‘Must.’ These maidens shape life for men.” While the attitude toward fate expressed in *Gylfaginning* is distinctively pre-Christian, belief in a destiny ultimately controlled by divine guidance corresponds equally well to the Christian view of an omniscient deity. The oath linked with fate, therefore, has the greatest cultural significance and is able to transcend moments of religious conversion, which could potentially threaten the continuation of a pre-Christian concept of invoking the divine to ensure truth.

⁶⁹ This connection is further enhanced by the etymological connection which exists between *oito- and the ‘relics’ used in swearing. See *A Dictionary of Selected Synonyms in the Principle Indo-European Languages*, s.v. oath.

and moral consequences, which guard against the threat of abuse and exploitation, further enhances the considerable influence of this classification of swearing. The ability of the oath to connect with larger spiritual and ethical forces that regulate society and to join individuals within the larger body of the community accounts for its widespread usage especially in those moments where the strongest guarantees of veracity are required.⁷⁰ Thus, the high regard for the integrity and authority of the oath defines Icelandic and Anglo-Saxon positioning of this category of sworn language within the most important settings requiring honesty.

Judicial Oaths

While every oath is based on equivalent invocations of the divine in testimony to the speaker's honesty, great variety exists among the distinctive purposes that depend largely on the specific function of the oath. Two classifications stand out, the judicial oath and the oath of loyalty, because of the significant role they play in Icelandic and Anglo-Saxon cultures. The first of these groups, the judicial oath, comprises the most significant collection of oath-taking in regard to both the frequency of usage and the authority of the oath within the legal process. It is, therefore, not surprising that a large number of compound nouns in Old English and Old Norse are formed using *áp* and *eiðr* as their principal component. In Iceland, these oaths are called *lögeiðr*, specifically referring to the “legal oath” as distinct from other types of sworn statements.⁷¹ Consideration of the numerous vernacular compound forms of “legal oaths” reveals how significant the oath was to judicial functions in both Iceland and Anglo-Saxon England.

⁷⁰ A search of *The Dictionary of Old English Web Corpus* electronic search engine reveals that *að*, in its various noun forms appears a total of 349 times. Of those results, 49 (14%) of the results come from legal texts, and 87 (25%) come from religious (homily, biblical, or hagiographic) texts. Antonette DiPaolo Healey, ed. *The Dictionary of Old English Web Corpus*. Ann Arbor, MI: University of Michigan Press, 2004. <http://tapor.library.utoronto.ca/doecorpus/>.

⁷¹ *An Icelandic-English Dictionary*, s.v. *lögeiðr*.

The Anglo-Saxon and Icelandic judicial systems employ the oath for many specialized functions from the beginning to the end of any legal action. Chief among those purposes was the oath taken before the presentation of charges that initiated the court case, as attested by the Old English *fóreáp*, the oath sworn at the beginning of every lawsuit.⁷² In addition to justifying and validating legal indictments, many other specialized oaths supported the efforts of the defendant in arguing for acquittal. Compurgation, for example, required a defendant to swear to his or her innocence followed by the support of witnesses who swore to the truth of the defendant's statement. Both Icelandic and Anglo-Saxon compurgation, however, called for different numbers of witnesses to swear depending on the severity of charges against the defendant. In order to address the range of compurgation, compound forms were established in both languages to indicate the number of individuals required to attest to the truth. The Old Norse *eineiðr*, the "single oath," and the Old English *ánfealdáp*, the "simple oath," both represent the basic level of compurgation relying only on the character of the person swearing. The Old Norse *lyritareidr*, an "oath of three," and the Old English *þrýfealdáp*, "threefold oath" offer additional credence by means of the added credibility drawn from two additional oath-helpers. The person swearing garners even more support by the addition of five fellow compurgators, as reflected in the Old Norse *seðtareidr*, "the oath of six," or by the maximum addition of twelve in the Icelandic *tylptareidr*, the "oath of twelve." Increasing the number of witnesses required for compurgation regulates the security of the oath by placing added pressure on the individual swearing, especially when the oath is vital for determining high risk legal cases. Adding more individuals to the oath-taking process ensures that only valid statements are accepted by distributing the responsibility of protecting the oath to a wider

⁷² Joseph Bosworth and T. Northcote Toller. *An Anglo-Saxon Dictionary*, (1898. Reprint, Oxford: Oxford University Press, 1976), s.v. *fóreáp*.

group, thus mitigating the risk to the larger community that individuals might be tempted to risk perjury.

Indeed, binding more witnesses to the oath is only one feature of judicial swearing expressed by the numerous Old Norse and Old English compound nouns. Among the other types of oaths central to our understanding of this category of sworn language, a number of them serve very narrowly defined purposes related to trial procedures. Two Old Norse nouns, the *duleiðr*, the “oath of denial,” and the *varnareiðr*, “an oath for the defense,” specifically serve the purpose of presenting counterarguments in disputed cases. A similar oath defined the Anglo-Saxon legal defense with the *cyreáp*, “the choice oath, or oath sworn by the accused together with a certain number of consacramentals selected by him out of a fixed number of persons named to him by the judge.”⁷³ In addition to those oaths specifically designated for legal defense, some forms of swearing are restrictively designed to serve only specific legal cases. The Old Norse *morðseiðr*, for example, refers specifically to “an oath of compurgation in a case of a murderer.”⁷⁴ The gravity of the accusation of homicide is reflected in the attention given not only to its prosecution, but also in the special label identifying oaths involved in these cases. In much the same way, those oaths associated exclusively with cases heard before medieval Iceland’s appellate court, the Fifth Court, are labeled as *fimtardómseiðr*, in recognition of their specialized usage before this Icelandic legal institution. Because the Fifth Court hears only unresolved cases sent from the lower Quarter Courts, the oaths that it requires to function are not necessarily the same as those customarily employed in lower courts. This complexity of judicial process is one of the factors in the proliferation of the vocabulary of swearing. Despite the number of compound forms attached to judicial oath-taking and the specific contexts

⁷³ *An Anglo-Saxon Dictionary*, s.v. *cyreáp*.

⁷⁴ *An Icelandic-English Dictionary*, s.v. *morðseiðr*.

associated with each form, the nature of the oath is not altered by these composite words. These oaths remain, regardless of the specialized purposes and usages indicated by their distinctive labels, the primary means through which words assume a judicial function through the ritualized act of swearing.

Oaths of Loyalty

Similar to judicial oaths, a significant number of compound nouns in Old English and Old Norse employ the word “oath” to form a subset of sworn language: the expression of one’s fidelity or allegiance to another. While oaths taken in the judicial context serve to present evidence or regulate legal proceedings, oaths of loyalty are designed to establish indissoluble social bonds. While oaths of loyalty exhibit many variations, none of the compounds within the group presents a fundamental alteration of the characteristics present in the basic oath. Instead, this group of oaths specifically details the contexts in which oaths can be employed for a certain political purpose.

The most common and the least socially regulated expression of fidelity is the oath of blood-brotherhood, a variant of swearing particularly popular among the Germanic peoples. Such oaths are designed to transform ordinary friendships into special relationships akin to kinship, and as a symbolic representation of that unity they require the ritualistic mixing of blood by the individuals swearing. A comrade who swears this oath is labeled in Old Norse as an *eiðbróðir*, or “oath-brother,” and he must uphold those conventions expected of family members, frequently in avenging the death of a fellow sworn companion.⁷⁵ Much like the bonds formed by swearing blood-brotherhood, the Old English *geféranáð*, “the oath of a companion,” also expresses the unity of two individuals whose oath-taking allows them to create

⁷⁵ *An Icelandic-English Dictionary*, s.v. *eiðbróðir*.

relationships roughly equivalent to those of the family. The prefix *gefér* refers specifically to “a company of warriors” or the *comitatus* serving together as a military unit.⁷⁶ As demonstrated by the behavior of Byrhtnoth’s warriors in “The Battle of Maldon,” men bound by the obligations of military service frequently share the same bond as those joined by the oath of blood-brotherhood. The poet of the “The Battle of Maldon” recounts: *hi woldon þa ealle oðer twega, / lif forlætun oððe leofne gewreca*n, “then they all wished to do one of two things, either lay down their life or avenge their dear [companion].”⁷⁷ Many of Byrhtnoth’s men refer to him not only as their lord, but also as a “dear” or “beloved” companion who is not simply a military leader. The loyalty expressed in these lines extends far beyond the mere obligation to fight for a leader. In fact, as “The Battle of Maldon” and other texts demonstrate, the ultimate test for such oaths is a willingness to risk one’s life in order to prove the reliability of such bonds of loyalty.

While the bonds of loyalty expressed in the oaths of a companion or blood-brother represent common forms of swearing to ensure loyalty, they are generally based on an assumption of equal standing between those making them. Blood brothers are typically from similar social circles and members of the *comitatus* share identical status as warriors. Not every oath of loyalty, however, comes from expressions of mutual friendship or joins together members of identical status. It is particularly true that loyalty oaths join together those of unequal social status, and such acts of swearing are frequently associated with an individual’s submission to authority. The rise of royal control in Anglo-Saxon England, particularly under the consolidation of King Alfred’s reign, is further reflected by increasingly more regulation of those

⁷⁶ *An Anglo-Saxon Dictionary*, s.v. *gefér*.

⁷⁷ Donald G. Scragg, ed. *The Battle of Maldon*, Old and Middle English Texts Series (1981; reprint, Hong Kong: Wing King Tong, Co., 1991), lines 207-8.

oaths of loyalty that bound the English together under the power of the king. Despite no centralized royal authority within early Iceland, Icelanders were also not without experience with the bonds of fealty. Contact with the kings of Norway and other rulers abroad, as well as powerful chieftains at home, meant that Icelanders too had familiarity with the verbal commitments binding followers under the influence of the powerful. The Old English *holdáp* and *hyldáp*, along with the Old Norse *trygðaeiðr* both refer specifically to the process of “swearing fealty.” Likewise, a similar relationship is expressed by the Old Norse *trúnaðareiðr*, or “oath of allegiance,” which also conveys a sense of deference within its meaning. Each of these terms allow an individual’s word to express faithfulness, yet they also depend on an individual’s ability to submit to the power of authority.

The Pledge

The second category of sworn language, the “pledge,” has a structure that is more loosely constrained than those aforementioned statements regulated by strict legal and ritual practices. The pledge is characterized by the pairing of words with an exchange, and it is defined by the *OED* as “anything handed over to or put in the possession of another, as security for the performance of a contract or the payment of a debt, or as a guarantee of good faith.”⁷⁸ There is a real sense of loss involved in breaking the pledge because the speaker must offer up something of value to guarantee validity. What is offered with the pledge might be as abstract as the person’s integrity and honor, or as tangible as the bail-money transferred during the making of these agreements. No matter if the surety is composed of material objects or intangible assets linked to the act of pledging, the punishment of forfeiture exists to ensure that a speaker must honor his words. Because the individual attempting to present his or her

⁷⁸ *The Oxford English Dictionary*, s.v. pledge.

language as valid also offers collateral, these arrangements are heavily weighted to favor those who receive the pledge. As stated earlier, and indeed with all three of the categories of sworn language discussed in this study, the burden of proof for maintaining the integrity of an individual's statements is primarily the responsibility of the person speaking. He or she must ensure that the words of the pledge hold true, or at least appear so to their recipient. Only after successfully convincing assurances and appropriately precious collateral have been exchanged does this type of sworn agreement bind speech to an expectation of legitimacy.

Although the Anglo-Saxons did not use the root form of our modern word "pledge," their vocabulary did include various words that convey many of the senses of our modern concept of pledging; consider for example, the word *wær*, whose conventional definitions of "a covenant, compact, or agreement" help to convey the type of exchange indicated within this category of sworn language.⁷⁹ None of these initial senses, however, provide enough background into what is typically offered as surety for this arrangement or under which circumstances such exchanges take place. Likewise, the covenant has an extremely broad scope from the monumentally inclusive, representative of the contractual interactions between the human and the divine, to the infinitesimally personal, such as an agreement made between neighbors. Some further information regarding how best to interpret the senses of the word *wær* can be found within its additional meanings. For example, equating *wær* specifically with the concept of the "pledge" directly links this Old English term with a non-Germanic one, but it also helps to narrow our understanding of its place within this category of sworn speech.

Positioning an Anglo-Saxon idea within a modern designation whose etymology is derived from an Old French word can be justified by information found in extant early glosses.

⁷⁹ *An Anglo-Saxon Dictionary*, s.v. *wær*.

Joseph Bosworth and Thomas Northcote Toller note in their further explication of the term *wær* that the Anglo-Saxon glosses in the Brüsseler Codex include the word *wær* for the Latin words *foedus* and *pactum*.⁸⁰ According to *A Latin Dictionary* compiled by Charlton Lewis and Charles Short, the noun *foedus* in classical Latin means a “league, treaty, or compact” as well as a generalized relationship of exchange in the sense of “a covenant, agreement, or bargain.”⁸¹ Likewise, *pactum* communicates an implication of verbal bartering as “an agreement, covenant, contract, stipulation, or compact.”⁸² The acceptance of Latinate synonyms links the foundations of the Old French ancestry of “pledge” to the accepted Anglo-Saxon understanding of the word *wær*. Even though evidence of a direct etymological affiliation between *wær*, *foedus*, and *pactum* is lacking, this artificial association does provide an indication of the significance conveyed by the Old English word, as well as providing justification for my use of the word “pledge” to translate *wær*.

Foedus and *pactum*, in addition to labeling generalized bargains and agreements, also specifically refer to marriage contracts made between two families. Because betrothal is a specialized type of agreement regulated by conventions and designed to sanction a future wedding, questions arise if the word *wær* also supports such a specialized sense among the Anglo-Saxons. The answer to how to interpret *wær*, especially regarding its application to a context of betrothal, is found when comparing the Old English term with its Indo-European roots. The linguistic heritage helps to disambiguate this complex taxonomy by providing some evidence of a precedent for meaning. *The Gothic Etymological Dictionary* positions *wær* within

⁸⁰ For more on the gloss of *wær*, see C. Bouterwek, *Die Angelsächsischen Glossen in dem Brüsseler Codex von Aldhelms Schrift De Virginitate*. *Zeitschrift für deutsches Alterthum* 9 (1853), 401 - 530.

⁸¹ *A Latin Dictionary*, s.v. *foedus*.

⁸² *A Latin Dictionary*, s.v. *pactum*.

the entry for the reconstructed Gothic compound **tuz-werjan*, and the etymology of the Old English is specifically traced under the larger discussion of the component word **-werjan*, meaning “to keep, or protect.”⁸³ Lehmann identifies two relevant Indo-European roots also associated with the term, *wer-(H)-* and *wēro-s*. The former Indo-European root is defined as to “be friendly.” The sincerity implied in amicability is critical in making successful agreements, trying to affect a truce, or reaching some other type of contractual settlement. Indeed, the Germanic motif of attempting to end conflict through marriage is quite common in Anglo-Saxon literature, supporting the intellectual basis for reading *wær* in this manner. *Beowulf* contains some of the more illustrative examples of marriage alliances formed as methods for ending conflicts, including the betrothal of Hrothgar’s daughter Freawaru to Ingeld, prince of the Heatho-Beard tribe and major adversary of the Danes. Yet, *Beowulf* comments that all of these plans to forge peace through the marriage exchange are doomed to failure since *oft seldan hwær / æfter leodhryre lytle hwile / bongar bugeð, þeah seo bryd duge*, “often anywhere after a prince’s fall the deadly spear rests only a little while, even though the bride is good.”⁸⁴ If betrothal is to produce hope for an end to the violence of feud, strong guarantees must accompany these bonds. Given that the pledge requires something put up as collateral, one can assume that the life of the son or daughter stands as the surety, and punishment falls to that offspring if either side fails to adhere to the arrangement. All of the conditional elements and the cultural framework, therefore, are present to suggest that *wær* does apply to crafting guarantees of betrothal. Because rituals of betrothal effectively transform outsiders into family members, they are the ultimate form of forging affable relationships and thereby reinforce the

⁸³ Lehmann, s.v. **tuz-werjan*. See also Joseph Wright, *Grammar of the Gothic Language* (1957; reprint, Oxford: Clarendon Press, 1997) s.v. **werjan*.

⁸⁴ *Klaeber’s Beowulf and the Fight at Finnsburg*, ed. R. D. Fulk, Robert E. Bjork, and John D. Niles, 4th ed. (Toronto: University of Toronto Press, 2008), lines 2029b – 2031. Hereafter abbreviated *Beo*.

linkage between the meaning of *wær*'s Indo-European root and the fundamental sense of the Old English noun.

By looking at *wēro-*, the second Indo-European root associated with *wær*, a complex relationship also emerges that joins the action of taking the pledge back to a foundational conception of truth. *Wēro-* is tied to the Germanic verb **wēra-*, "to be," making this type of speech a manifestation of how reality should be expressed through language.⁸⁵ Although this second etymological connection draws the focus away from the formalized usage of *wær* marked by exchanges of collateral, such as betrothal, it does reinforce the significant role played by pledging as the guarantee of speech. Exchanges made in the form of a pledge, therefore, transform what is said into the authentic truth through the very act of articulating the statement. The impact of the unity of reality and speech is also best expressed through the shared connection to yet another Latin cognates, *vērus* and *vēritas*, from which we derive much of our modern terminology for honesty, such as 'verity,' 'verdict,' and 'verify.' *Wær* is uniquely positioned to operate on the border between its specific functions for constructing treaties and wedding agreements, and its broad role as a generalized certification of factual statements. Far from being marginalized by its flexibility of meaning, the Anglo-Saxon concept of pledge merits examination of its service in both legal and literary usages.⁸⁶

In contrast to its Old English neighbor, the Old Norse word *várar* receives only minimal critical discussion as the Icelandic form of the pledge. The entry in Richard Cleasby and Guðbrand Vigfusson's *Icelandic - English Dictionary* lists only one principal sense associated with

⁸⁵ *The American Heritage Dictionary of Indo-European Roots*, s.v. *wēro-*.

⁸⁶ *The Dictionary of Old English Web Corpus* records 56 instances of the word *wær*. Of those results, 20 (36%) come from religious texts, while only 3 (5%) are legal texts. The other forms do not merit consideration in this study because they represent either glosses or adjectival forms.

the word, and the entry opens with a note that *várar* customarily appears as a plural form. Details about the number of the noun do have a practical bearing on the usage of the word, since the plural form suggests that more than one exchange is necessary for the pledge to function properly. Moreover, the pledge always requires participation from more than one individual and at least two sides must be present for the articulation of responsibilities or the requirements necessary for the exchange. The Old Norse plural form not only relates to the multiple individuals involved in pledging, but also to the fact that this speech act is accompanied by the addition of an exchange to guarantee behavior. In this sense, the pledge includes both statement and surety, so that each use of this type of sworn language involves more than one interaction between speaker and audience. Employing *várar* as strictly a plural noun, therefore, is a logical extension for the various features that define a pledge as a distinctive form of swearing.

Following the limitations of the noun's number, Cleasby and Vigfusson offer the definition of "a pledge, troth, or plight" as the primary senses of the word.⁸⁷ The last of these three denotations, the "plight," provides an additional nuance of meaning for the pledge. Although the word "plight" initially suggests a situation involving danger, it also conveys the sense of "an undertaking or obligation involving a risk of forfeiture," which is exactly how the pledge functions.⁸⁸ Because the threat of loss makes exchanging pledges operate efficiently, associating "plight" with *várar* further reinforces the defining feature of this category of sworn language. Likewise, merging the pledge with the idea of "pledging troth" reinforces the common etymological root shared by *várar* and *wær* with the Indo-European verb *wēro-*. Given

⁸⁷ *An Icelandic - English Dictionary*, s.v. *várar*.

⁸⁸ *Oxford English Dictionary*, s.v. *plight*.

that the pledge is a verbal embodiment of assurance, a sensible connection exists between “pledging troth” and the decisive nature of the verb “to be” found in *wēro-*. Since “troth” is also connected with “truth,” the third category of sworn language, these overlapping denotations enhance the value of the pledge by emphasizing the expectation of swearing as an inescapable guarantee.

Despite the narrow denotations associated with *várar*, etymological evidence indicates that an approximate correspondence of usage exists between the Old Norse term and its Old English counterpart. Drawing on the same Indo-European roots, *wer-(H)-* and *wēro-*, *várar* also traces its meaning to the feelings of goodwill and correspondence with reality that mark the earlier discussion of *wær*. Additionally, the *Altnordisches Etymologisches Wörterbuch* cites a correlation between the Indo-European roots of *várar* and the Latin term *vērus*, thus reinforcing the pledge as a category of sworn language dependent on and tied to concepts of veracity. Yet another additional usage strengthening the connection between Anglo-Saxon and Icelandic pledging is found in the specialized relationship of the exchanges of betrothal. Much like the context of betrothal associated with *wær*, *várar* is also used to signify the commitment of joining families together through the betrothal agreement. The compound word *várar-hendi*, which Cleasby and Vigfusson define as “a wedding-hand,” supports this specialized sense of the pledge by specifically linking betrothal with one of the most significant actions in making the pledge.⁸⁹ Just as pledges typically include the clasping of the hands as a physical manifestation that both parties agree upon one specific perspective, so too does the spousal joining of hands during a marriage ceremony symbolically convey the union of two individuals into one family. Inclusion

⁸⁹ *An English – Icelandic Dictionary*, s.v. *várar*.

of the word for “hand” within this compound communicates the mutual foundations of the pledge and its relationship with betrothal.

Although the term *várar* is associated with the integral social acts of betrothal and marriage, Cleasby and Vigfusson categorize this word as obsolete, implying it is superseded by other expressions of legitimized speech. Temptation does exist to discontinue our investigation of *várar* with its classification as an archaic expression, yet given Iceland’s linguistic stability and its lack of foreign loan-words to compete against the local vocabulary, the diminishing use of this word merits further exploration. The period of religious conversion and the resulting cultural transformation culminating around 1000 C.E. with the adoption of Christianity at the *Alþing*, the General Assembly, had an impact on the language of swearing. Efforts to move Iceland away from its former gods and goddesses might explain why *várar* was abandoned as a regular expression of sworn language, particularly for its association with the goddess Vár. This connection is noted by Cleasby and Vigfusson, who list the name of the goddess as the only instance of the singular form of *várar*. The relationship between Vár and the pledge is significantly deeper than orthography and reaches to the very heart of how *várar* was used by the Icelanders. Included among the list of Scandinavian goddesses in Snorri Sturluson’s *Gylfaginning* is a description of Vár: *Níunda Vár: hon hlýðir á eiða manna ok einkamál er veita sín á mili konur ok karlar. Því heita þau mál várar. Hon hefnir ok þeim er brigða.*⁹⁰ “The ninth [goddess] is Vár: she listens to the oaths of men and personal agreements which are made between women and men. For this reason these exchanges are called *várar*. And she takes vengeance against those who violate them.” This brief account from *Gylfaginning* provides many important clues about Icelandic pledges. First, the goddess highlights those core

⁹⁰ Snorri Sturluson, *Edda: Prologue and Gylfaginning*, ed. Anthony Faulkes, vol. 1 (1982; reprint, Exeter: Short Run Press, 2000), Lines 36-9.

principles of swearing through her simultaneous responsibilities as the witness and the enforcer of the pledge. A legitimate pledge, according to these guidelines, requires both witnesses to affirm validity and the threat of sincere penalties to make adherence compulsory. Moreover, the passage specifically mentions that the goddess is interested in agreements made between the sexes. By providing the specialized context for those agreements associated with *várar*, Snorri reinforces the position of the pledge as an integral feature for betrothal and matrimony. The account in *Gylfaginning* also provides a substantial rationale for the limited appearance of *várar* since it is so conspicuously linked to a pre-Christian deity.

The Vow

The Anglo-Saxons and Icelanders had more than one expression for the process of pledging. As a subcategory of the pledge, the vow is based upon the offering of collateral as assurance that the individual will preserve the sincerity of what he or she asserts. The difference lies in its inclusion of a divine invocation. The *OED* principally defines the vow as “a solemn promise made to God, or any deity or saint, to perform some act or make some gift or sacrifice in exchange for some special favor.”⁹¹ The vow ensures that, much like the pledge, an individual’s declaration will be in complete correspondence with the reality of his or her actions. The threat of confiscation or loss is again the motivating factor designed to ensure compliance with the spoken agreement. At its core, for example, the vow expresses “a solemn promise of fidelity or faithful attachment,” and this denotation corresponds identically with our understanding of how the pledge also operates.⁹² While these mutual denotations present solid evidence for grouping the vow under the paradigm of the pledge, we must still remember to

⁹¹ *The Oxford English Dictionary*, s.v. vow.

⁹² *The Oxford English Dictionary*, s.v. vow.

differentiate this subcategory of sworn language by highlighting the features that distinguish it. The characteristic element of the vow is an appeal to the spiritual, which serves as the guarantee authorizing the process of swearing. Given the distinctive combination of truth with a heightened sacred component, it is not surprising that this form of sworn language also includes the characteristically ecclesiastical meaning of “a solemn engagement to devote oneself to a religious life of a definite nature.”⁹³ This form of vowing is typically used by the individual seeking entrance into monastic orders or the religiously sanctioned expression of commitment made during the marriage ceremony, and it further serves to integrate personal conviction, religious belief, and the sacred nature of ritual into a dependence on veracity. In addition, the vow regularly replaces the physical surety present in a pledge with an exchange based on spiritual commitment. Making a vow, therefore, incorporates a stronger level of earnestness and faith, thus distinguishing its specialized nature. Moreover, while surety given as a guarantee of the pledge is obligatory, sacrificing or giving gifts for the vow implies a personal desire to offer compensation for the trust guaranteed through this process. The vow embodies, therefore, the most significant qualities of pledging, like exchange, but adds to them emphasis on the spiritual aspects of swearing.

Much like the etymological origins of the “pledge,” we also face the obstacle of tracing the word “vow” back to non-Germanic roots. Like “pledge,” the origins of the word “vow” trace back to Old French. The Old French word *vo*, the etymological predecessor of our modern word, is linked to the Latin term *vōtum*, a “solemn promise made to a deity.”⁹⁴ Tracing *vōtum* back to its Indo-European roots leads to the form *wegʷh-*, whose meaning is “to preach, or speak

⁹³ Ibid., s.v. vow.

⁹⁴ *The Oxford English Dictionary*, s.v. vow. *A Latin Dictionary*, s.v. votum.

solemnly.”⁹⁵ The etymological link between the Indo-European and Latin forms is clearly outlined, yet corresponding Germanic forms connected to this root are absent. These origins, particularly a root verb expressing preaching, reinforce the understanding that the vow contains an additional religious emphasis for its speaker, thus enhancing the specialized function it serves as a distinct variety of pledge. With its etymological heritage tied to Old French and Latin sources, the earliest attestations of the word “vow” come not from the Anglo-Saxons, but rather from Middle English sources dated to the first quarter of the thirteenth century. The late emergence of “vow” as a word for swearing indicates that the Old English term *wedd*, despite the incursion of Old French vocabulary, continued in circulation in some forms until well after the Norman Conquest.⁹⁶

Wedd, the Old English word most closely corresponding to the aspects of swearing that characterize our modern conception of the word “vow,” is principally defined by Joseph Bosworth and Thomas Northcote Toller as “a pledge, or what is given as security.”⁹⁷ This sense of the word corresponds closely with the preceding discussion of *wæŕ* as the pledge, and a mutual component of exchange suggests that little visible difference exists between these two words in their initial meaning. Likewise, the secondary denotation cites the “pledge, engagement, covenant, or compact,” another usage that closely resembles that of *wæŕ* for its use in joining together two parties through a sworn agreement.⁹⁸ The Old Norse noun *veð* is both etymologically and semantically akin to *wedd*.⁹⁹ The parallel usage of the Old English and

⁹⁵ *The American Heritage Dictionary of Indo-European Roots*, s.v. *weg*^{wh}-.

⁹⁶ *Middle English Dictionary*, s.v. *vou*(e).

⁹⁷ *An Anglo-Saxon Dictionary*, s.v. *wedd*.

⁹⁸ *An Anglo-Saxon Dictionary*, s.v. *wedd*.

⁹⁹ For discussions of orthography, particularly for a relationship in Old Norse between the consonants -ð and -d, see the rules of assimilation in Faarlund, p. 12. For a similar discussion of the relationship between

Old Norse words, moreover, provides us with further context to interpret the distinctive features of the vow, in particular the vow's connection to religious attestation. While the words *veð* and *wedd* have their distinguishing characteristics, these terms also share some important features, such as guarantee through exchange, linking them with the pledge. An interconnection of meaning between vow and pledge is further supported in the Old English by the inclusion of two Latin cognates, *foedus* and *pactum*, in the entry for *wedd*, elements that further correspond to the earlier discussion of *wær*.

However, interpreting *wedd* and *veð* as a "vow" requires us both to distinguish them from the pledge, *wær/várar*, and to acknowledge that these terms share many of the same characteristics. Referring to *wedd* or *veð* as vow, a subcategory of the pledge, explains how those moments of overlapping meaning can coexist. The most fundamental evidence for reading *wedd* or *veð* as a vow instead of simply another pledge comes from their derivation from an alternative Indo-European root not connected to *wær* or *várar*. *Wadh-*, the Indo-European root from which they descend, is not connected with either *wer-(H)-* or *wēro-s*, those roots related with *wær*, despite the overlapping relationship of each with the concept of veracity.¹⁰⁰ *Wadh-*'s meaning of "pledge" is further refined in the proto-Germanic form **waðjan*, which conveys the sense of a "pledge, surety, or bail," reinforcing the connection between *wedd* and *veð*, and the similar terminology of exchange found in the pledge.¹⁰¹

Wedd is frequently used, as attested by the exemplum listed by Bosworth and Toller and a search of the *Dictionary of Old English Web Corpus*, in the translation of agreements sworn

-d and -ð in Old English, see the discussion about dissimilation in Richard M. Hogg, *A Grammar of Old English*, vol 1. (Oxford: Blackwell, 1992), p. 257.

¹⁰⁰ *The American Heritage Dictionary of Indo-European Roots*, s.v. *wadh-*.

¹⁰¹ *A Gothic Etymological Dictionary*, s.v. **waðjan*.

within many religious texts.¹⁰² The deep spiritual nature of the vow is reflected, therefore, in the use of *wedd* by Anglo-Saxon translators to represent moments of significant spiritual covenants between humanity and the divine. *Wedd* appears, for example, in the Anglo-Saxon version of Genesis 6:17 to render the Latin passage *ego statuam pactum meum vobiscum*, ‘and I will make my covenant with you,’ into Old English. This verse, recounting God’s vow to spare humanity if Noah reciprocates by following God’s commands in building the ark, is particularly significant because it testifies to the first biblical instance when God and humanity enter into mutual agreement guaranteed by sworn language. Despite both *wær* and *wedd* being listed as synonyms for *pactum*, it is clear that the translator’s decision to use *wedd* to portray such a critical religious moment indicates the stronger spiritual application found in *wedd*. Although it is not used exclusively as a biblical term in Old English, the inclusion of *wedd* as the principle biblical instance of swearing reveals that it is the prevailing choice for spiritual expressions of veracity.

An analysis of the Old Norse *veð* and the context for its use reveal how medieval Icelanders employed this specific subcategory of sworn language. The definition of *veð* provided by Cleasby and Vigfusson outlines only a skeletal meaning of the word as “a pledge, or surety,” without including any alternative senses which might further amplify understanding of its use.¹⁰³ Unlike *wedd*, *veð* is a cognate of the Latin noun *vas*, which has the meaning of “bail, security, or surety,” and provides a physical certification of an individual’s honesty. Yet, *vas* also conveys the sense of a “hostage,” the individual whose very body is given in the exchange to guarantee

¹⁰² A search of *The Dictionary of Old English Web Corpus* reveals that forms of the noun *wedd* appear 153 times, with 45 (30%) of those results coming from religiously-based texts. Of those same results, 22 entries (14%) appear in legal texts.

¹⁰³ *An Icelandic – English Dictionary*, s.v. *veð*.

the integrity of an agreement.¹⁰⁴ The words are linked to the process of bargaining, therefore, and they add to the physical component for both senses of *vas*. Additionally, the deeply punitive nature of such transactions if the speaker fails to uphold the terms of the agreement informs our understanding of *veð*. Like the focus on exchange that drives *várar*, *veð* places an equivalent emphasis on what is exchanged with the vow as the means to ensure true speech.

Discussion of *veð* focuses primarily on the exchange of property, money, or honor as the means of enforcement to guarantee truth, yet looking further into the context for employing this specialized form provides information about what makes this a unique form of sworn language beyond simply a threat of punitive confiscation. Although it does not include an overt emphasis on the religious side of swearing, as found in the corresponding word *wedd* in Old English, *veð* does convey added respect for the solemn nature of veracity that is a distinct characteristic of the vow. This seriousness is manifest through the specific context of two compound nouns, *veðmáli* and *veðfesta*, which also share the same basic definition as *veð*. Each of the respective components in these compounds, *máli* and *festa*, further indicate how *veð* was employed in formal settings. The first of these nouns, *máli*, is defined not only as “a contract, terms, or an agreement,” but also within a legal milieu as “a title, or claim” often associated with land or property.¹⁰⁵ The claim of an individual requires a sincere attestation following procedures sanctioned by the justice system, and thus the vow clearly corresponds to such an obligation of truth expressed by the compound *veðmáli*. While it is not the only example of swearing recognized by the Icelandic courts, the vow conveys an increased level of respect for the procedure involved in certifying the truth. In a similar manner, the noun *festa* refers specifically to the “bail, or pledge” that ties the individual to his or her statement. Given that

¹⁰⁴ *A Latin Dictionary*, s.v. *vas*.

¹⁰⁵ *An Icelandic - English Dictionary*, s.v. *máli*.

this component of the compound is also tied to an associated verb form meaning “to fasten with a cord,” such a compound indicates how the Old Norse word for vow joins together the exchange of surety with honesty.¹⁰⁶ The context for the vow provided by the verb *fasta* extends beyond the importance of exchange and into the role of faith and personal conviction for ensuring honesty, found especially within the verb’s secondary sense, “to fix one’s faith on, or to believe in” something.¹⁰⁷ Although the belief discussed in this definition transcends specific religious application, it is based on a similar pattern of placing the individual’s sworn statement entirely within the strength of his or her conviction. The real potential of the word *veðfesta* to ensure truth, therefore, is derived not from enforcement of exchange alone: the power of the speaker’s convictions serves as the real motivation to regulate truth within this form of swearing.

Alternatively the compound *veðfé* stands out as worth noting because initial assumptions about its meaning, that *veð* + *fé* = pledge + money, suggest that it simply denotes the collateral used to ensure swearing. While a superficial literal translation of this compound might suggest a connection with both “surety” and the “vow,” *veðfé* instead denotes a “bet, or wager.”¹⁰⁸ Offering surety and betting both depend on similar systems of enforcement, yet the financial damage resulting from a bad wager does not depend on a speaker’s truthfulness or behavior. Instead of agreements corresponding to an individual’s conduct, the monetary exchange is the consequence of an externalized outcome ventured as part of the wager’s agreement. However, despite the different venue of the exchange, the stakes offered in

¹⁰⁶ *An Icelandic - English Dictionary*, s.v. *fasta*.

¹⁰⁷ *Ibid.*, s.v. *fasta*.

¹⁰⁸ *Ibid.*, s.v. *veðfé*.

gambling rely on similar principles to those guiding exchange under the vow. Both the wager and the vow compel an individual to honor the conditions of his or her spoken agreement, and the penalty for breaking the wager, much like the violation of the vow, results in a loss of honor. The financial loss suffered by an individual betting closely resembles the pecuniary punishment applied to those who must forfeit their surety to a party when vows are broken. Thus, the subcategory of the vow provides the means for a better understanding of the subtle variations separating the medieval Icelandic usage of *veð* from its counterpart in *várar*.

The Truth

The most rudimentary level of trusted language is the declaration that a speaker is articulating the “truth.” This form of sworn language is the most abstract of our three categories because, unlike a pledge or an oath, the speaker relies primarily on the uncorroborated commissive speech act itself rather than an invocation to a higher, often divine, authority for enforcement. The perlocutionary function of the speech act is to affect the audience, and speaking the “truth” relies on the recipient of the speech act believing implicitly, without the speaker offering any substantial reason. What complicates the idea of the recipient believing implicitly is that the primary definition of truth - “the quality of being true” – allows for different understandings of the meaning of “truth.” Within that sense of the word there are two further meanings: “the character of being true to a person” and “one’s faith or loyalty as pledged in a promise or agreement.”¹⁰⁹ Additionally, our modern conceptualization of truth denotes the supplemental understanding of both “conformity with what is true,” and “a true statement or fact.”¹¹⁰ Yet these additional definitions of the word fall outside of the dynamics of

¹⁰⁹ *The Oxford English Dictionary*, s.v. truth.

¹¹⁰ *Ibid.*, s.v. truth.

personal relationships, and they are attributed to subsequent developments in the meaning of the word. The earliest attestations for these latter senses, according to the *OED*, date to the fourteenth and fifteenth centuries, while the former meanings, which position truth as an interpersonal bond, are originally found in written sources from as early as the ninth and tenth centuries. Although many of the ethical, intellectual, and even theological aspects of the word “truth” are not yet fully developed for use by Old English speakers, it is clear that this word and the concept it represents is essential to the early medieval vocabulary of swearing.¹¹¹

Appreciation of this expanding role of “truth” for Middle English and beyond is aided by a careful examination of its origins from Germanic roots.

The Old English word with the strongest correlation with our modern concept of “truth” is the noun *tréow*. Bosworth and Toller define *tréow* as “truth to a promise or engagement” with an appended additional meaning of “faith, as in keeping the faith with a person.”¹¹² *Tréow* also contains a stronger religious sense in the meaning of “faith in something, or belief,” which links it with a spiritual “trust, or confidence.” Faith and truth are connected in a fundamental way since neither relies on external enforcement, yet both are measured by the internal conviction of the individual. Likewise, they both are built upon a sense of infallibility, and neither faith nor truth can exist without an absolute belief by the individual who holds them. The magnitude of *tréow*, however, is not contained within a singular definition and Bosworth and Toller provide further nuances of meanings for this important Old English noun. Two of these additional senses of *tréow* include “truth of the strong individual to a weaker, grace, or favor,” and “truth to a person, or fidelity,” which provide further indications for how this category of sworn language was shaped by relationships among the Anglo-Saxons.

¹¹¹ See Green, *A Crisis of Truth*, p. 9.

¹¹² *An Anglo-Saxon Dictionary*, s.v. *tréow*.

Fidelity can only originate from within the speaker and requires outward signification in order to demonstrate the internal certainty. The power and status of the one receiving assurance of loyalty are expected to be equal to or higher than the speaker offering his word of honor as security for fidelity. This usage of *tréow* has clear implications for communal and social relationships because truth only functions properly when an individual uses it to connect with others. The strength of personal belief, moreover, allows an individual to convey this trustworthiness to an audience through the act of making a sworn statement about this conviction. Grace, on the other hand, may not be confirmed by the one asking for it; and likewise grace cannot originate from within, but must come from an external source. While loyalty typically unites people of equal rank or connects persons of a lower social rank with a higher, grace usually operates along the opposite spectrum of social relationships. Grace is used to bind one individual with more power to another who is seeking assistance, and those who ask for grace typically do not have their own power. *Tréow* communicates this wide range of meanings for speakers of Old English, yet no matter which social relationships are involved, all are equally dependent on the correspondence between the speaker and the sincerity of his speech. Defining *tréow* as the “truth” allows it to represent the potential of one’s word within any context, expanding the force of meaning when it directly corresponds to the act of making promissory speech. While this Old English word covers a broad range of usage, from secular to religious truth, the fundamental basis for every function of *tréow* is rooted in its guarantee of “truth” as the most basic category of sworn language.

The link bridging “truth” as either a personal conviction or a public proclamation of veracity is further enforced by looking at *tréow*’s Indo-European root form **deru-*.¹¹³ The

¹¹³ See Lehmann, *A Gothic Etymological Dictionary*, p. 347.

primary meaning of **deru-* is listed as “solid, steadfast; hence specialized sense of ‘wood,’ ‘tree,’ and objects made of wood.”¹¹⁴ Not surprisingly, Bosworth and Toller include a separate Old English noun *tréow*, meaning “a tree,” or a “beam, log, stake, staff, or cudgel,” directly preceding the entry for the one denoting “truth.”¹¹⁵ While the connection to the natural world might initially appear confusing, there is an instructive relationship between the relative durability of timber and the permanence and inflexibility which should characterize the truth.¹¹⁶ There is, however, more than one term associated with **deru-*, and a second noun, *truwá*, also has its origin in this same Indo-European root. As an alternative Old English form for “truth,” *truwá* is related to *tréow* through a shared initial phoneme as well as a similar meaning of “faith” as it is related to an individual’s credibility.¹¹⁷ Bosworth and Toller list further senses of *truwá* as “belief, confidence, and trust,” which further establish this word as a synonymous form within the same category of sworn language. Indeed, the final sense listed for *truwá* expresses “a solemn assurance of good faith,” which directly applies these earlier principles of honesty to the act of speaking. Another word that shares the meaning of “truth” essential for this survey is the noun *tréowþ*, whose orthographic connection to *tréow* is unmistakably visible. Much like the two earlier terms, *tréowþ* also conveys the meaning “truth and good faith.” Yet *tréowþ* also possesses a secondary sense conveying the specialized meaning of “a covenant or an assurance of good faith.”¹¹⁸ These words are all indicative of the process of investing confidence in sworn

¹¹⁴ *The American Heritage Dictionary of Indo-European Roots*, s.v. **deru-*.

¹¹⁵ *An Anglo-Saxon Dictionary*, s.v. *tréow*.

¹¹⁶ *A Dictionary of Selected Synonyms in the Principle Indo-European Languages*, ed. Carl D. Buck (Chicago: University of Chicago Press, 1949), p. 1167.

¹¹⁷ *An Anglo-Saxon Dictionary*, s.v. *trúwa*.

¹¹⁸ *Ibid.*, s.v. *tréowþ*.

language, a feature so central to the Anglo-Saxon perception of swearing that an individual's assurance of sincere speech is equated with his social customs and religious convictions.

For representations of "truth" in Old Norse, the parallels to Anglo-Saxon equivalent words are also comfortably apparent. The noun form *trúa*, which closely resembles the Old English *truá*, is initially defined by Cleasby and Vigfusson as an individual's "trust" or "belief."¹¹⁹ The phrase "as an oath" included after this first sense of the word, is an indication of the close association of this noun with the other forms of sworn language. This clarifying sense does not imply that Icelanders would automatically approach the word *trúa* with the same regard as an oath, but that the word is meant to convey the same respect for the power of language to authenticate veracity. Such an understanding of the word is illuminated by the association of two colloquial expressions also connected with the process of swearing: *þat veit trúa mín*, "upon my word," and *svá njóta ek trú minnar*, "by my troth."¹²⁰ Although this phraseology may sound overly casual by modern standards, both axioms undeniably employ the word *truá* in order to communicate the legitimization of speech to those who are accepting the individual's statements. The serious nature of *truá* is further supported by the additional meaning of "faith, belief, in a theological sense" included by Cleasby and Vigfusson as the second entry for the word. This shared mixture of trust and faith found in the Old English and the Old Norse word is indicative of a common linguistic ancestry with the Indo-European root **deru*.¹²¹ The *Altnordisches Etymologisches Wörterbuch* also supports this shared etymological heritage while observing a common link in religious usage between the Old English and the Old

¹¹⁹ *An Icelandic – English Dictionary*, s.v. *trúa*.

¹²⁰ Although Cleasby and Vigfusson render *svá njóta ek trú minnar* as 'by my troth,' a more literal translation would read 'thus I make use of my truth.'

¹²¹ Lehmann, *A Gothic Etymological Dictionary*, p. 347.

Norse forms.¹²² For both “trust” and “faith,” the initial sense is followed by the clarifying understanding of belief and a personal confidence of trust in something. This supplementary context for the Old Norse word suggests that it is not enough to understand *truá* as the position of veracity alone, since it must also stand in place for the conviction of the individual. The complex meanings associated with the word *truá* require careful scrutiny of its usage within the Old Norse corpus in order to separate out statements about faith from those about veracity. This distinction is most pertinent when *truá* functions substantively in a purely religious sense specifically to represent Christianity, as in the phrase *taka við trú* “to receive the Christian faith.” While this sense of trust offers an interesting perspective of Christian spiritual authority, particularly for post-conversion Iceland, it does not inform our understanding of the legal sense of *truá* in the context of sworn language. Despite the need for cautious investigation, however, appreciating how this sense of truth is inexorably linked to personal conviction as much as to language makes this contextually specific term especially appealing for what it can reveal about sworn language.

Much like their Anglo-Saxon neighbors, Icelanders also had more than one term available for expressing the idea of truth. In addition to *truá*, the Old Norse noun *tryggð* also shares a connection with “truth.”¹²³ *Tryggð* also has as its principle meaning “faith,” and this definition is clarified by “good faith, or trustiness.”¹²⁴ Just as with *truá*, this word shares a personal conviction supporting the individual’s language bordering on devout belief. Unlike the

¹²² *Altnordisches Etymologisches Wörterbuch*, s.v. trauan. See also *Deutsches Wörterbuch von Jacob Grimm und Wilhelm Grimm*, vol. 21 (Leipzig: S. Hirzel, 1854-1960) p. 1326.

¹²³ See Faarlund, *The Syntax of Old Norse*, p. 15 for more on the orthographic and phonological connections of *truá* with *tryggð*, specifically the changes which result in medial *u* being rendered as *y*.

¹²⁴ *An Icelandic – English Dictionary*, s.v. tryggð.

religious connotations associated with *truá*, however, those clarifying senses appended to *tryggð* by Cleasby and Vigfusson have a more mundane application in friendship. This meaning of friendship is suggestive of the communal, social relationship of “truth,” and further linked by the legal applications dependent on the support of others to verify certainty of speech. The subsequent senses defining *tryggð* enhance our understanding of how the use of “truth” can forge the essential bonds between individuals, especially as a legal expression of “plighted faith, or truce” connecting members of society.¹²⁵ Within a legal context, particularly as a method of ending conflict, “truth” requires the participation of second parties to offer external validation of what is declared. Only when sworn statements are accepted as true by both sides will a truce function successfully; likewise, an individual can only offer his or her loyalty to another if the latter party is willing to accept that declaration. *Tryggð* falls into line with the perception of “truth” expressed above by *truá*, but it also emphasizes the function of sworn language as a social construct, one that is contingent on both the speaker’s belief in what is said and the probability that it will be believed by others.

“Sooth”

The lexicon of sworn language is quite extensive and, just as with the vocabulary describing any other abstract concept, more than one synonym can function interchangeably as an alternative way to convey the same ideas. It is, therefore, not surprising that additional expressions exist that do not come from mutual etymological roots, but whose applications do fall within the parameters of the same classification of “truth” as it applies to sworn language. Unlike the previous grouping of terms based on the Indo-European **deru-*, with three Old English and two Old Norse words, another ancillary term exists that traces its linguistic descent

¹²⁵ *An Icelandic – English Dictionary*, s.v. *tryggð*.

from different origins. The Old English noun *sóþ* also carries the principal meaning of “truth, in a general sense.”¹²⁶ The inclusion of the qualifying phrase “in a general sense” by Bosworth and Toller suggests that this form of truth is more idealistic and less clearly defined in its usage than any of the previously discussed terminology. The classification of *sóþ* as a theoretical or philosophical embodiment of “truth” is further supported by the supplemental entry of “conformity with an absolute standard” following its initial meaning. The unqualified agreement suggested by this definition is a very idealistic position, one that is especially rare in a world where misinterpretation, uncertainty of meaning, and especially deception tend to blur lines between honest and fallacious speech. The inflexible nature of *sóþ* in response to such challenges is enumerated by the secondary sense of the word as “truth in regard to a particular circumstance, or exact conformity with the facts of a case.”¹²⁷ As the embodiment of these intangible qualities, *sóþ* also functions ideally within a legal context, particularly as it communicates the agreement of spoken words with the actual events described. *Sóþ* corresponds to this understanding of “truth” so strongly that in many instances it is also used synonymously for a “fact,” something known with certainty to be true. Subsequent definitions provided by Bosworth and Toller also reinforce the role of *sóþ* in connecting the intangibles of speech and reality in a concrete way. But in application with sworn language specifically, *sóþ* is connected to “fidelity to a promise” or the exact ability of a speaker to hold true to what he or she has already declared. Unfortunately, such an expression can only legitimately be evaluated after the individual has already acted and behavior already exists by which the truth of the

¹²⁶ *An Anglo-Saxon Dictionary*, s.v. *sóþ*.

¹²⁷ *An Anglo-Saxon Dictionary*, s.v. *sóþ*.

promise can be assessed.¹²⁸

The basis for rendering *sóþ* as the union of speech and reality is found in the Indo-European root from which the word traces its etymological origins. Lehmann's *A Gothic Etymological Dictionary* places *sóþ*, as well as its Old Norse counterpart *sannr*, under the entry for **sunjis*, the Gothic word for "truth and trust" derived from the Proto-Indo-European *sntī*.¹²⁹ This Indo-European form is itself derived from the present participle of **es-*, another Indo-European root-word whose own meaning further explains the interconnection of each of these features. Because **es-* is the verb expressing "to be," naturally its participle form, **sont-*, is used to describe something with "being," and hence possessing an actual physical existence.¹³⁰ This means that if something is labeled as "true," according to the meaning derived from this etymological heritage, it must indeed be real. Since the qualification of reality is conceptually linked to the very physical nature of a "true" statement, there is no room for prevarication. Likewise, there can be no falsification or separation from this sense of "truth," since losing this characteristic would also be tantamount to losing the essence of what is described. Comparing the origins of "truth" in *sóþ* with those discussed earlier in *tréow*, the abstract quality of the verb "to be" stands out against the tangible nature connected to the permanence of the "tree." In this manner, both ends of the spectrum of reality, the physical and the metaphysical, are represented within this single category of sworn language.

¹²⁸ From the standpoint of expressing absolutes, *An Anglo-Saxon Dictionary* says that *sóþ* can also logically be elevated to express universal "conformity with right, righteousness, equality, or justice." Yet reaching beyond the level of an individual's speech into issues of justice goes beyond the scope of this study, and in tracing the appearance of the Old English word *sóþ*, it is necessary to target only those instances when it relates directly to the trustworthiness of sworn language.

¹²⁹ Lehmann, *A Gothic Etymological Dictionary*, p. 329.

¹³⁰ *The American Heritage Dictionary of Indo-European Roots*, s.v. **es-*.

Just as *sóþ* represented an alternative form used for truth by the Anglo-Saxons, the noun *sannr* was used by speakers of Old Norse as a substitute for either *truá* or *tryggð*. *Sannr*, which is also rendered as *saðr*, is connected to the same Indo-European root as *sóþ* and the usage of the Icelandic word also mirrors that of its Old English counterpart.¹³¹ Cleasby and Vigfusson open their entry for *sannr* by listing “justice, or equality” as the primary sense of the noun.¹³² This denotation corresponds with the secondary meaning of *sóþ*, reaffirming the linguistic bond between the languages. Neither “justice” nor “equality,” however, convey the same meanings as “truth” and so this survey will not concern itself with these alternative senses of *sannr*. An applicable meaning is found in the secondary denotation of “evidence, or proof” and herein the noun has relevance as part of the first category of sworn language, “truth.” The proof offered by this meaning comes, much like for the word *sóþ*, from the way the term can qualify the actual physical reality of something. This word, therefore, can express the potential that language will be found true, or the “truth” of a statement has already been verified. Such power for the authentication of speech can naturally function productively within a legal context. The potential value of *sannr* in offering proof is evident in the phrase *eigi vitan vér sann á því*, which Cleasby and Vigfusson render as “we know not the truth thereof, or have no proof of it.”¹³³ As the final term within our third category of sworn language, *sannr* must also be carefully scrutinized in order to target specifically those instances when it pertains to attestation. The “truth” is a decisive element in the maintenance of sworn language, and as one of the foundational principles upon which this language develops, without it there can be no

¹³¹ Lehmann, *A Gothic Etymological Dictionary*, p. 329. See Faarlund, *The Syntax of Old Norse*, p. 12 for the linguistic principles behind rendering the double consonants *nn* as *ð* before *-r*.

¹³² *An Icelandic – English Dictionary*, s.v. *sannr*.

¹³³ *An Icelandic-English Dictionary*, s.v. *sannr*.

confidence in the authority of speech. The careful study of the Old English vocabulary, specifically *tréow*, *truwá*, *tréowþ*, and *sóp*, along with the Old Norse terminology, *trúa*, *tryggð*, *sannr*, and *saðr*, provides the means to assess the utility and effectiveness of sworn language. Consideration of a speaker's attempts to validate his or her language as "truth" may constitute only the most rudimentary level of swearing, yet this most fundamental degree of veracity also provides the foundation for the comparison of all other varieties of attestation.

Later Developments

No etymological analysis of the lexicon of sworn language would be considered complete without additional discussion of how these words are transformed through later usage. Tracing the way that the contemporary expressions for truth are shaped by the medieval lexicon requires exploration of the changing nature of language, particularly as a result of invasion and the ensuing linguistic interchange. Historically England was frequently assaulted by outside forces, most notably the decades of Viking raids, the rise of a Danish kingship under Cnut, and the eleventh-century Norman Conquest. As a consequence of these incursions, the language of the English continuously adapts to accommodate the new groups assimilating into the native population.¹³⁴ Conversely, medieval Iceland did not suffer from similar incursions, and Heather O'Donoghue notes that, "...modern Icelandic has changed very little from its medieval form, while English has changed a great deal."¹³⁵ Indeed, the modern Icelandic nouns like *trú* and *sannur*, both of which retain the sense of "truth" found in their medieval roots, still bear a clear visual resemblance to their medieval antecedents. Middle English, however, saw

¹³⁴ See Morton Bloomfield and Leonard Newmark, *A Linguistic Introduction to the History of English* (New York: Alfred A. Knopf, 1963), p. 174.

¹³⁵ Heather O'Donoghue, *Old Norse – Icelandic Literature: A Short Introduction* (London: Blackwell Publishing, 2004), p. 7.

the simplification of the language conventions of Old English and an influx of additional Norman vocabulary, resulting in gradual changes to the vocabulary of truthfulness.¹³⁶

The Middle English *ōth*, which was rendered through a variety of spelling variations, reflects very little shift in meaning or in its apparent frequency of use. The *Middle English Dictionary* primarily defines *ōth* as “a solemn invocation of God, sacred relics, or one’s troth to witness the truth of a statement or one’s intent to carry out a promise or agreement.” Attestation to this usage dates from around the beginning of the thirteenth century. The legal application of the *ōth* is enumerated in the secondary definition of “legal proof of someone’s innocence or motive,” as well as “the truth of one’s statement in a legal or governmental proceeding.”¹³⁷ Evidence of the continued usage of this word is found in *The Peterborough Chronicle*, whose historical account began in Anglo-Saxon times and continued into the Norman occupation of England, thus making the oath the best preserved of all forms of swearing discussed in this study.

Although it seems that only minor differences separate the “pledge” from its related concept of the “vow,” examining the evolution of terms associated with these two categories further expands the features that distinguish one expression from another. Looking at the etymological successors of these words in both Middle English and modern Icelandic not only reveals those eventual shifts in meaning, but also indicates the frequency of their successive usage. An examination of their regularity of use and the transformation of their meanings

¹³⁶ Specifically, the transition from Old English to Middle English is marked by a leveling of the vowels in the final and inflectional endings, simplification of the system of inflections, and the use of prepositions in place of case endings. For more discussion, see Fernand Mossé, *A Handbook of Middle English*, trans. James A. Walker (1952; reprint, Baltimore: Johns Hopkins Press, 1966), p. 1.

¹³⁷ *The Middle English Dictionary*, s.v. *ōth*.

suggests that at some point, while the Anglo-Saxon expressions for “pledge” and “vow” ceased to function in their original capacity as indicators of sworn language, the Old Norse forms entered modern usage unaltered.

Turning first to the modern Icelandic expressions corresponding to *veð* and *várar*, it is possible to see larger developments for these words than for those discussed in the previous category of sworn language. Since the medieval Icelandic lexicon remains relatively unchanged, it is not surprising that *veð* continues to express the “security, or collateral” intended to secure an agreement.¹³⁸ Yet absent from the modern noun is the denotation signifying the vow itself rather than the physical exchanges that guarantee it. A shift in meaning, therefore, moves the modern word *veð* away from the expression of swearing and toward the “mortgage” or the “pawned” collateral that ensures the intangible truth of the vow. As nuanced as the shift in usage for *veð* appears for present-day Icelandic, *várar* experiences an even stronger change between the medieval and modern world. An expression already marked by limited use and an etymological past linked to pre-Christian deities, *várar* is conspicuously absent from the vocabulary of modern Iceland. Religious conversion undoubtedly hastened a shift away from this obsolete term and resulted in the rise of alternative forms for swearing. The outcome of this analysis indicates that neither the “pledge” nor the “vow,” as they appeared in medieval times, survive in modern Icelandic parlance.

Looking at the Anglo-Saxon expressions for “pledge” and “vow” reveals shifts in usage and denotation commensurate to those experienced in the Icelandic vocabulary. For example, *wæc* undergoes a significant divergence in meaning from its original Old English. By the fourteenth century, the Middle English noun *wēre*, although etymologically aligned with *wæc*, exhibits only a minor connection to the denotation of its Anglo-Saxon predecessor. Rather than

¹³⁸ *Íslensk-Ensk Orðabók*, s.v. *veð*.

functioning as an expression of truth regulated by sworn language and guaranteed by the exchange of surety, *wēre* instead signifies an individual who acts as a “guardian, or protector.”¹³⁹ The dissociation between the Middle English and Old English words, however, is not as far removed as the difference between the meanings of “pledge” and “guardian” might initially suggest. Indeed, credibility is an essential feature for swearing to function properly, and it is also necessary for delegating an individual’s protection to another. Reflection on the Indo-European root of *wær* further illuminates the relationship between trustworthiness and security, and several cognates associated with the Germanic form *werjan* communicate meanings of “kindness,” “friendliness,” and “faithfulness” that bind together the earlier and later senses of this word.¹⁴⁰ Much like the shift of the Icelandic *veð* from expression of truth to physical manifestation of surety, the transformation from *wær* to *wēre* occurs when a different sense of the word receives an increased emphasis by later usage.

Yet another major transformation is the significant decline in frequency between the Old English and the Middle English words. While *wær* appears in a number of Anglo-Saxon texts from biblical translations to homiletic writings, *wēre* is attested by *The MED* in only one Middle English version of *Genesis*. Just as with the disappearance of *várar* from modern Icelandic, a similarly sharp decline in *wēre* indicates the rise of an alternative expression to take the place of *wær* as “pledge.” *Wedd*, much like its Old Norse counterpart *veð*, corresponds to a Middle English cognate whose orthography appears overtly unchanged despite a minor shift in the principal denotation of the word. The Middle English *wed* no longer functions initially as the vow, but rather as the expression of “something temporarily held by or deposited with a

¹³⁹ *The Middle English Dictionary*, s.v. *wēre*.

¹⁴⁰ Lehmann, *A Gothic Etymological Dictionary*, s.v. **tuz-werjan*.

creditor in order to ensure payment of a debt or fulfillment of an obligation; a security.”¹⁴¹ Just as *veð* begins increasingly to center its usage on the physical rather than the verbal guarantee of truthfulness, so too does *wed* increasingly function as the surety exchanged between parties rather than a vow.

The shift in the Middle English *wed* does not mark a complete abandonment of sworn language for this word. Indeed, the secondary sense of the Middle English denotes “an undertaking to pay, a pledge, or a contract” to honor the debt incurred.¹⁴² Yet the “pledge” expressed in this sense does not extend beyond the physical exchange, and the words certify truth only in so far as to guarantee that a monetary transaction will occur in the future. While increasingly defined by surety and exchange, the Middle English usage of *wed* is not entirely devoid of meaning relating the sanctity of verbal agreements and acts of expressing true intentions. Among the additional meanings conveyed by *wed* is the sense of “something presented or pledged as a token and guarantee of a promise, specifically a token and guarantee of a promise to marry.”¹⁴³ From this usage can be traced our modern conception of the wedding ceremony, and the vows exchanged during that ceremony embody this spirit of swearing. Yet even in expressions of the wedding, this vow is not without the exchange of rings, objects designed to represent the physical manifestation of the words expressed during the vow. Additionally, *wed* has the meaning of “something hazarded or put at risk of forfeit through the contingency of events, or the fortunes of war,” a meaning that corresponds to the act of gambling expressed in the Old Norse compound of *veðfé*.¹⁴⁴ While various expressions and

¹⁴¹ *The Middle English Dictionary*, s.v. *wed*.

¹⁴² *Ibid.*, s.v. *wed*.

¹⁴³ *The Middle English Dictionary*, s.v. *wed*.

¹⁴⁴ *Ibid.*, s.v. *wed*.

denotations are appended to *wed* during the later medieval period, these senses still remain closely aligned with the Anglo-Saxon function of the word as an expression of truthful speech.

Indeed, a majority of these Middle English denotations are founded upon expectations of veracity to govern the exchange. The continued dependence of *wed* on honesty, coupled with its increased emphasis on physical manifestations of this expression, accounts for its continued usage throughout the medieval period. Unlike the waning appearance of *wēre* within the vocabulary of Middle English, textual evidence supporting continued use of *wed* ranges from the twelfth to the sixteenth centuries.¹⁴⁵ *Wedd* serves, therefore, as a critically important Old English noun whose place in the vocabulary of truth continues to resonate throughout the years after its focus has shifted away from the intangibility of speech toward a materialistic accent on collateral. The evidence of such a profound alteration to the function of *wedd* is best expressed through the lack of a modern English expression that is the equivalent of the original Anglo-Saxon meaning. Looking at the closest noun related to the Old English word, the “wedding,” one finds a ceremony with the purpose of gathering witnesses to ensure truthful and legitimate expressions of commitment. Even within modern parlance, though, this ceremony still refers to the act of exchanging statements labeled “wedding vows.”¹⁴⁶ Thus, the vestiges of the Icelandic and Anglo-Saxon “pledge” and “vow” continue to survive in modern usage, but only as shadows of their former selves.

Although the Middle English words for “truth” did experience some minor transformations during the subsequent rule of the Norman kings, these terms remain largely

¹⁴⁵Ibid., s.v. *wed*.

¹⁴⁶ The Old English noun *wedding*, linked etymologically with *wedd*, conveys the meaning of “betrothal” rather than the exchange of vows during the actual marriage ceremony itself. The Middle English noun *wedding* is defined as the “the act of marrying,” suggesting that at some point the definition shifts away from promises exchanged before marriage to promises exchanged in the act of marrying.

correspondent with their Anglo-Saxon forms. *Tréow*, for example, continues unaltered in its primary meaning and only minor changes in orthography result in the Middle English word *treue*. While the noun *treue* continues to function primarily as an expression of pledged faith and belief, it also develops additional usage as “a deferral, or delay” and “an end to affliction, or respite.”¹⁴⁷ The Old English word provides the origin of our modern expression of a “true” statement, yet is also the foundation for “truce” as the suspension or elimination of hostility. For *tréowþ*, the transition from Old English is once more visible in the orthographic changes that result in the Middle English *treuth*. Although the Middle English word retains those meanings formerly employed by Anglo-Saxon speakers, to those are added the further meanings of “honor, or integrity” and “virtue, or rectitude of character.”¹⁴⁸ Some conflation must have also occurred during the Norman Conquest, and the subsequent influx of French terminology results in the assimilation of additional qualities into the meaning of *tréowþ*. *The MED* includes an additional entry for *treuth* with the denotation of “things as they are, or reality,” a quality formerly retained in Old English specifically for the word *sóþ*. Initially this conflation might suggest that *treuth* comes to function as a substitute for a term no longer available to Middle English speakers, yet *sōth* continues to be an integral Middle English word that retains its earlier Anglo-Saxon denotations. Indeed, unlike the other words for “truth” that continue to accrue additional meaning throughout their continued usage, *sōth* does not pick up any further signification during its subsequent use.¹⁴⁹ Although the word “sooth” eventually becomes an archaic expression for modern English speakers, its employment in Middle English texts

¹⁴⁷ *The Middle English Dictionary*, s.v. *treue*. See particularly meanings 4 and 7, which date to around 1300 and 1400 respectively.

¹⁴⁸ *Ibid.*, s.v. *treuth*.

¹⁴⁹ *The Middle English Dictionary*, s.v. *sōth*.

demonstrates its continued value as a marker of sworn language. The survival of all these Old English entries further testifies to their profound importance for the medieval world. Despite all of the changes brought about by the Norman invasion, the influx of a competing French vocabulary, and even the passage of time, the successors of each word persist within the English lexicon, so that they ultimately retain the same nuances of meaning preserved in their Old English antecedents.

CONCLUSIONS

Undoubtedly, a significant number of words associated with swearing are present within Old English and Old Norse-Icelandic texts. The three major categories of oath, pledge, and truth outlined in this study signify the important place that sworn language has in both Anglo-Saxon and Icelandic culture. This diverse body of terminology, appearing throughout the legal rituals and literary narratives of England and Iceland, must not be considered uniformly synonymous or subject to an unrestricted exchange between the various categories of swearing. Instead, each grouping must be understood for its own nuanced sense of the representation of veracity and the individualized legal functions that manifest themselves into distinct literary patterns. Only by examining each of these three expressions for their own distinctive features can we hope to understand the subtle variations that distinguish each form of sworn language from the next. These distinct categories of sworn language approach the bond between words and deeds from different conventions and varying levels of potency. Understanding the connections and etymological foundations of these words allows us to distinguish between their regulation of acceptable social behavior and punishment for those who attempt to manipulate truthfulness.

The “truth,” as well as the related word “sooth,” relies primarily on an individual’s belief in the abstract nature of words corresponding with the “reality” constructed around swearing.

And while the statement that something is “true” does not rely on the same traditions as the oath for its creation, it does draw on a similar desire for language to necessitate or regulate behavior. Pledges, as well as the subcategory of vows, make use of a system of exchange typified by the transfer of monetary surety designed to enforce truth through confiscation. The oath stands out as the most formal and ritualized expression of honesty. Oaths are made on symbolically significant religious objects and often include witnesses who broaden the social responsibility for their enforcement. The intensive study of the language chosen from the judicial and literary texts of Iceland and Anglo-Saxon England reveals that, not only does the oath vary from the pledge, the vow, and the general statement of “truth,” but a clear hierarchy of veracity and formality exist. This hierarchy allows modern readers to better understand the significance that these terms have in the writings of Iceland and Anglo-Saxon England and appreciate the semantic choices made by the authors.

CHAPTER 3

SAFEGUARDING SWEARING WITHIN THE LAW

Legal Prohibition and the Protection of Sworn Language

*Æt ærestan we lærað, þæt mæst ðearf is, þæt æghwelc mon his að ond his wed wærlice
healde.*¹⁵⁰

*We decree first, that the need is the greatest, that every man should hold carefully to his oath
and his pledge.*

Position is frequently a correlative function of prominence. If this axiom remains true, then the decision of King Alfred and his West Saxon advisors to begin their efforts to collect and reform English law with an edict demanding accuracy in swearing is a deliberate indication of its salience for the legal process. Although this Alfredian law is by no means the earliest or only legislation to address potential abuses of honesty, it does give a refreshing and straightforward glimpse into the mentality behind the regulation of sworn language. As the prologue to Alfred's legal corpus explains: *Ac þa ðe ic gemette aþær oððe on Ines dæge mines mæges, oððe on Offan Myrcna cyninges oþpe on Æþelberhtes, þe ærest fulluhte onfeng on Angelcynne, ða ðe me rihtest þuhton, ic ða heron gegaderode, ond ða oþre forlett,*¹⁵¹ 'And those [laws] which I found either in the day of Ine, my kinsman, or in [the day] of Offa, king of Mercia, or in the day of Æthelberht, who first received baptism among the English, I compiled those which seemed the most appropriate to me herein, and I left out the rest.' Given that the regulation upholding swearing is not explicitly attributed by the text to any other Anglo-Saxon ruler, it is safe to assume that this law is crafted specifically for Wessex to resolve situations not fully addressed by any earlier

¹⁵⁰ Ælfred 1. *Gesetze*, 1:46.

¹⁵¹ Ælfred "Einleitung" 49,9. *Gesetze*, 1:46.

edicts. Accordingly, the context of Alfred's legislative reform program and the deliberate arrangement of this specific law at the start of his legal compilations confirm the meaningful and elaborate nature of swearing as a foundation of early Anglo-Saxon law.

Additionally, the Anglo-Saxon effort to codify swearing has many features in common with similar foundations in the openings of various Icelandic legal texts. Much like the legal reforms of Wessex, the culmination of another royal effort for legislative assemblage and renovation is the thirteenth-century laws of *Jónsbók*, which also begins by emphasizing the importance of swearing.¹⁵² The introduction to this new code includes a concise explanation by King Magnús, the Norwegian ruler of Iceland, explaining the methodology behind revising his collection of laws. The prefatory letter states:

*Þingfarar balkr er nu sem fyrr at onnduerðu ritaðr. fyrr en hefui sialfa bokina. þuiat aðr hæir at skipat se þingit. ok nefndir se skoðaðar logrettu men kosnir. eiðar fluttir. grid sett. ok sidsemdum lyst at þui betr werði bokinne hlytt sidan ok domum sem þingit er betr sidat ok stillt, 'The chapter on traveling to the assembly is now as before written at the beginning before the book itself begins because it is fitting first that the assembly be set, the nominations reviewed, the members of the Law Council chosen, oaths taken, a truce established, and the rules of the assembly proclaimed, because the better behaved and orderly the assembly is, the better respect paid thereafter to the book and the judgments reached.'*¹⁵³

¹⁵² While *Grágás* represents the oldest collection of Icelandic laws (composed under an independent commonwealth), *Jónsbók* is significant because it is the final medieval collection of Iceland's laws. Although later amendments modify some of its statutes, *Jónsbók* remains the standard for Icelandic law in the medieval period. For more information, see Jana K. Schulman, introduction to *Jónsbók: The Laws of Later Iceland*, Bibliotheca Germanica, ed. Hans Fix, n.s., 4 (Saarbrücken, Germany: AQ-Verlag, 2010). Hereafter abbreviated as *Jónsbók*.

¹⁵³ *Jónsbók*, pp. 2-3.

In addition to the specific mention of taking oaths, every activity mentioned in this preamble, from the nomination of assembly judges to the acceptance of the court's legal judgments, involves the exchange of sworn language as the guarantee for legitimized legal conduct. Like Alfred before him, Magnús acknowledges a desire for the orderly arrangement of materials as the driving force behind his consequential legislative reform. The adjustments made by these shrewd West Saxon and Norwegian kings anticipate that the law, especially when it is connected with valid assurances of honesty, possesses the potential to guide the community away from instability.

The intentional positioning of oath-taking at the forefront of both the Anglo-Saxon and Icelandic legal texts raises important questions about these two Germanic cultures. Why, for example, would such commonly understood concepts about truth need to be explicitly defined for groups who already enjoyed their customary usage for centuries prior?¹⁵⁴ Given that Alfred and Magnús are both building upon the precedent of earlier legal traditions, their efforts to solidify behavior left ill-defined by prior legislation must represent a response to some significant changes within their respective societies. Safeguarding swearing becomes a priority for both kings, and they ultimately respond with similar methods of codifying honesty in more structured ways. The existence of realistic internal or external threats to the smooth function of justice, specifically those discernible as endangering swearing, must have provided the impetus to address concerns about this critical legal institution. In addition to exploring these significant moments of legal evolution, it is also pertinent for us to ask not only how these noteworthy laws

¹⁵⁴ Herman Baltensberger asserts that many of the practices for swearing are observed *sowohl in heidnischer als auch in christlicher Zeit*, 'equally in the pre-Christian and Christian period,' making the exact origins of swearing indistinguishable. Baltensberger, however, cites the rich history of oath-taking in the Germanic mythic past as evidence of a deep rooted heritage for this practice. Herman Baltensberger, *Eid, Versprechen und Treuschwur bei den Angelsachsen* (Ph.D. diss., University of Zurich, 1920), p. 4.

are shaped by earlier legislative contexts of English and Icelandic swearing but also how the laws themselves affect the application of swearing within the emendations that follow them.

Answering these questions allows for the exploration of how ritualized exchanges of “truth” developed as the most crucial judicial foundation for early medieval England and Iceland.

In so far as it is possible, tracing the potential motivations for the laws regarding swearing illuminates the importance of these exchanges. Likewise, deeper knowledge of background information, as well as the historical illustrations of how oath-taking is occasionally abused, quantifies the fear that insincere individuals may exploit these practices, thereby undermining the judicial system. The probable impetus, for example, behind Alfred’s law binding an individual to the “oath and pledge” stems from the longstanding conflict between the English people and their ninth-century Danish opponents, often recorded as manipulating situations to their political or military advantage. Frequently Alfred’s negotiated peace treaties with these invaders are complicated by their blatant disregard for the inviolability of swearing. The *Winchester Chronicle* includes one clear example of this duplicity in the record for the year 893. The chronicler writes, *On þys geare, þæt wæs ymb twelf monað þæs þe hie on þæm eastrice geweorc geworht hæfdon, Norþhymbre and Eastengle hæfdon Ælfred cyninge aþas geseald and Eastengle foregisla VI and þeh, ofer þa treowa, swa oft swa þa opre hergas mide ealle herige ut foron, þonne foron hie, opþe mid opþe on heora healfe an*,¹⁵⁵ ‘In this year, which was twelve months after they had made the fortification in the East Kingdom, Northumbrians and East Anglians gave oaths to King Alfred and the East Anglians gave six hostages; but nevertheless, against that truth, just as often as the other armies went out in full force, then they marched either with them or on their side.’ With adversaries so willing to abandon the

¹⁵⁵ *The Anglo-Saxon Chronicle, Vol. 3: MS. A*, eds. Janet Bately, D. N. Dumville, and Simon Keynes (Cambridge: D. S. Brewer, 1986), p. 42.

sincerity of their agreements, the previous laws of the English must appear to Alfred inadequately equipped as a force to counteract the flagrant violation of sworn statements. By adapting legislation to address new threats of dishonesty, particularly when an enemy so perceptibly undermines trust, the West Saxon king and his councilors can tailor the rule of law to meet the immediate concerns of their situation.

Mistrust of prior political agreements also illuminates how King Magnús and the Icelanders shape their own legislation in response to the potential for erosions in social stability. Reluctance by some Icelanders to accept Norwegian dominance frequently complicates the royal administration of the island, as Norway's foreign political pressure is occasionally met with local resistance.¹⁵⁶ The issuance of *Jónsbók* as a replacement for the previous code, *Járnsiða*, constitutes an attempt to ameliorate Icelandic objections and to evoke a respect for the king's ability to bring order to the political system of Iceland.¹⁵⁷ Stressing the primacy of those laws involving oath-taking, especially in the context of assembly procedures, is a deliberate move by Magnús to evoke the terms of the *Gamli Sáttmáli*, the "old covenant" forged between Iceland and Norway in 1262 – 1264 during a series of local assemblies, resulting in the submission of Iceland's commonwealth government to Norwegian royal control.¹⁵⁸ While this union assures the continuance of many traditional Icelandic practices, it also contains the mutual agreement

¹⁵⁶ This resistance is best expressed in the example from *Óláfs Saga Helga*, when Einarr urges his fellow Icelanders to refuse the proposal of union with King Óláfr by saying, *Ok munu vér eigi þat ófrelsi gera einum oss til handa, heldr bæði oss ok sonum várum ok allri ætt várri, þeiri er þetta land byggvir, ok mun á nauð sú aldrigi ganga eða hverfa af þessu landi*, 'And we would not only impose that domination on ourselves, but impose it together on ourselves and on our sons and on all our kindred, who inhabit the land, and the land will go into bondage and not depart from that.' See *Heimskringla*, ed. Bjarni Aðalbjarnarson, vol. 27 of *ÍF* (1945; reprint, Reykjavik: Hið Íslenska Fornritafélag, 2002), p. 216.

¹⁵⁷ Jesse L. Byock, *Medieval Iceland: Society, Sagas, and Power* (1988; reprint, Berkeley: University of California, 1990), p. 76.

¹⁵⁸ For more about the history of the *Gamli Sáttmáli*, see Patricia Pires Boulhosa, *Icelanders and the Kings of Norway: Mediaeval Sagas and Legal Texts* (Boston: Brill, 2005), p. 87.

whereby Icelanders pledge their cooperation with Norwegian rule. *Skulu vier og vorir arfar hallda med ydur allan trunad medan þeir og ydrir arfar hallda vid oss þessa Sattar gjord. En lausar ef hun ryfst at beztu man[n]a yfir syn,*¹⁵⁹ ‘We and all our successors shall hold faith with you, as long as they and your successors hold this covenant with us. But it is dissolved if it fails the inspection of the chief men.’ Magnús, therefore, deliberately opens *Jónsbók* by honoring the heart of this agreement, assuring Icelanders that *nu sem fyrr*, ‘now as before,’ procedures of the assembly and court systems of Iceland will continue. As such, the king honors the conditions of the covenant and presents the need for adherence to one’s sworn duty in the introduction to his own code.

As much as the positioning of swearing in *Jónsbók* deliberately evokes the *Gamli Sáttmáli*, it also makes a clear appeal, like Alfred, to a tumultuous historical situation caused by flagrant refusal to maintain the bonds of truth. In the period prior to Iceland’s union with Norway, a time known as the *Sturlungaöld*, or ‘Sturlung Age,’ the rivalries between the powerful *goðar*, the ‘chieftans,’ are described as a serious disruption to the equitable administration of justice.¹⁶⁰ Because of the lack of any centralized executive branch of government in the early Icelandic commonwealth, enforcement of lawful verdicts is largely dependent on the consensus of the community.¹⁶¹ The competition between powerful leaders, trying to place their own advancement above the needs of their districts, results in a heightened sense of lawlessness for

¹⁵⁹ *Diplomatarium Islandicum: Íslenzk Fornbréfasafn*, vol. 1, ed. Jón Sigurðsson (Copenhagen: Hinu Íslenzka Bókmentafélagi, 1857), 620. Although this is certainly not the only version of the *Gamli Sáttmáli*, it is one of the earliest records of the arrangement between Iceland and Norway.

¹⁶⁰ See Jesse L. Byock, “The Age of the Sturlungs.” In *Continuity and Change: Political Institutions and Literary Monuments in the Middle Ages*, ed. Elizabeth Vestergaard (Odense: Odense University Press, 1986).

¹⁶¹ Such problems are highlighted in the sagas dealing with outlaw-heroes, like *Grettis Saga*, where those parties opposed to the outlaw are frequently frustrated by the lack of sufficient support to capture him or to impose the terms of the outlawry on him.

this period. *Íslendinga Saga* describes a quarrel between Snorri Sturluson and Magnús Guðmundarson that results in Snorri's opponent being unlawfully summoned and punished. This scenario is made more disturbing by the fact that Snorri himself serves in the office of *lögsögumaður*, or 'lawspeaker,' during this case.¹⁶² If the very official responsible for the "correct" application of law manipulates it for his personal gains, then other individuals seeking power are more likely to act partially in their own legal cases. The resultant judicial anarchy perpetuates conflict among the most formidable families in Iceland, whose struggles for control drive individuals seeking justice to ally themselves with those families. Justice becomes even more a matter of personal connections than a dependence on the structure of the law or merits of a case. As a result, King Magnús deliberately refers to the *Gamli Sáttmáli* to evoke this period of unfair legal practice, specifically calling attention to those individuals sworn to uphold the law who violated their oaths for individual gain. Thus, just as with the Anglo-Saxons, the law becomes the means of addressing problems of dishonesty, and the placement of swearing at the center of these royal reforms reinforces the effort to develop an organized and unbiased legal system.

Legal Approaches to Swearing

The laws of late ninth-century Wessex and thirteenth-century Iceland, understandably, are not alone in their efforts to maintain inviolability for expressions of honesty within judicial matters. As a result, the reforms of Alfred and Magnús are at the heart of an extensive body of legal regulations conveying the necessity of accurate language for legal usage.¹⁶³ Tracing the

¹⁶² Jón Jóhannesson, *Íslendinga Saga: A History of the Old Icelandic Commonwealth*, trans. Haraldur Bessason (1974; reprint, Winnipeg, Manitoba: University of Manitoba Press, 2006), p. 228.

¹⁶³ Although *Jónsbók* is the last major collection of law issued for Iceland, this code is subsequently amended first by King Eirík in 1294 and later by King Hákon, in 1305 and 1314, in attempts to improve these regulations.

influence of those precepts broadens our appreciation for the care taken by Anglo-Saxon and Icelandic judicial systems in standardizing the truth. Selecting laws from such a diverse body of material, spanning periods of significant political and social change, however, poses a serious challenge by offering an excessively expansive perspective on such legal influences.¹⁶⁴

Moreover, casting the figurative net too broadly for the sources of each law can easily overwhelm this study through the effort to trace foreign influences on the Icelandic and English systems of law. Therefore, I will look at the broader categories of swearing outlined in Chapter Two in order to manage the individual laws within a larger context of the evolution of legal attestation. A good way to review and to supplement these categories is to look to Hermann Baltensberger's 1920 dissertation, *Eid, Versprechen und Treuschwur bei den Angelsachsen*.

Baltensberger has carefully explored Anglo-Saxon regulations in comparison to other contemporaneous sources, primarily the laws of the Frankish kingdoms. For example, when speaking of the English coronation oath, he writes: "Die Verordnung, wonach sich ein freier, landloser Mann einem Schutzherrn zu kommendieren hatte, steht schon in den Kapitularien Karls des Dicken, also ein halbes Jahrhundert früher, ehe sie in den Gesetzen Aepelstans erscheint,"¹⁶⁵ 'The regulation commanding a landless, free individual to have selected a patron is already in the Capitularies of Charles the Fat, which were enacted a half century before they appear in the laws of Aethelstan.' Similar external influences on domestic legal policy can be found in the correspondence between Norwegian and Icelandic legal texts, whose influences

¹⁶⁴ While an understanding of Alfred and his time may provide certain insights into Cnut's tenth-century laws, it is also important to note that the intervening hundred years between these rulers complicates efforts to make broad-based connections between them. In a similar way, the Icelandic laws of *Grágás*, composed under independent rule of its commonwealth government, are not identical in their circumstances to those instituted in later years under the direction of the Norwegian kings.

¹⁶⁵ Baltensberger, *Eid, Versprechen und Treuschwur bei den Angelsachsen*, p. 12.

can also be traced. Norse legislation, including the *Gulaping's law*, *Frostaping's law*, and the *New Law of the Realm (Nyere Landslov)*, is comprised of materials akin to those found in the Icelandic laws of *Grágás*, *Járnsíða*, and *Jónsbók*. Laurence Larson, in his English translation of the *Gulaping* provisions, notes the strong resemblance between the chapters regarding peace pledges and the corresponding chapters in *Grágás*.¹⁶⁶ Likewise, Jana K. Schulman, in the introduction to her translation of *Jónsbók*, explains the close relationships of influence between the Norwegian and Icelandic laws.¹⁶⁷ Although such links reveal wider patterns of legal development, no direct comparison explores the similar attitudes toward swearing as they exist between the laws of Iceland and Anglo-Saxon England. This study, therefore, aims to fill that gap and explore the correlations between the corresponding vocabularies of swearing and comparable legal rituals of Iceland and Anglo-Saxon England to build appreciation for how both cultures react to situations dependent on the social roles of honesty. This linkage is important as it addresses the long history of interaction between Iceland and Anglo-Saxon England.

Baltensberger begins his analysis of Anglo-Saxon swearing with carefully defined categories of the separate functions of swearing. Under this schema of classification, individual branches of attestation are recognized as separate entities based on the purposes for their exchange. For example, the *Amtseide* 'oath of office,' is distinguished from the *Friedenseide*, the 'peace oath,' because they serve dissimilar functions. Baltensberger's approach is beneficial for drawing conclusions about how each type of expression is crafted to meet these specifically defined goals. Additionally, because Anglo-Saxons and Icelanders have similar objectives for swearing, these categories can be useful for the comparative study of each society.

¹⁶⁶ Laurence M. Larson, trans. *The Earliest Norwegian Laws: Being the Gulathing Law and the Frostathing Law*, (1935; reprint, Clark, NJ: The Lawbook Exchange, 2008), p. 210.

¹⁶⁷ *Jónsbók*, xiv-v.

The classifications created by Baltensberger make two major divisions between *Einfache Versprechen*, ‘simple promises’ involving only one speaker, and *Gegenseitige Versprechen* ‘mutual promises’ requiring oaths to be presented by multiple parties. What distinguishes these categories is the means by which an oath is validated (or invalidated) through the action (or inaction) of the audience. While those expressions in the *Einfache* group require only passive acceptance of the listener, those classified as *Gegenseitige* are of no value without a corresponding oath offered by the addressee. Neither a marriage ceremony nor peace treaty can be considered valid unless equivalent oaths are expressed by both participants. Although Baltensberger’s primary separation of sworn language offers minimal distinctions between types, his further subdivision of this language into eight separate oath-forms offers more relevant ideological categories useful for the purposes of this study. These groups include: *Krönungseid* ‘coronation oath,’ *Bestätigungseid der Witan* ‘confirmation oath of the council,’ *Richtereid* ‘judicial oath,’ *Kaufzeugeneid* ‘business oath,’ *Eid des Geleitmanns* ‘oath of the bond-man,’ *Friedenseide* ‘peace oath,’ *Eid der Eheschließung* ‘matrimonial oath,’ and *Reinigungseid* ‘oath of purification.’ Clear legal ramifications exist for each of these eight oath-types, making these oath-types an ideal starting point for the purposes of our present study.¹⁶⁸ Keeping the focus of this category specifically on swearing as part of a formalized conclusion to violent confrontation ensures the relevance of legal texts to this study. Likewise, Baltensberger’s system acknowledges pledges and vows as closely related to the process of oath-making, with the *Versprechen bei der Eheschließung*, ‘matrimonial pledge,’ discussed jointly with the marriage

¹⁶⁸ Some clarification, however, is required for the concept of the *Friedenseide*, which Baltensberger extends beyond the confines of legal texts to include blood-brotherhood oaths. Although the social bonds of sworn brotherhood are worth consideration, these agreements fall outside the legal purview and are not officially regulated by either Anglo-Saxon or Icelandic law. Blood-brotherhood and the oaths to make such relationships are commonly found within literary texts, yet no specific laws exist to describe their function or to regulate their creation.

oath. Although this study will draw a greater distinction between oaths and pledges than Baltensberger,¹⁶⁹ his consideration of these individualized categories serves as the foundation for the legal study of this chapter.

Additionally, this study expands upon Baltensberger's research by considering the legal codification of other forms of sworn language outlined in the hierarchy of swearing, both Anglo-Saxon and Icelandic, from two additional perspectives: those measures designed to promote swearing as a legitimate practice and those designed to summarily punish attempts at undermining the viability of such customs. While consideration of the specific audiences and expectations behind each form of swearing is important, it is also possible to seek broader unified intentions behind different types. For example, the purification oath (*Reiningungseid*) and the judicial oath (*Richtereid*), despite being positioned as individual kinds of swearing by Baltensberger, both depend on the expectation that the language of an individual's expression can affirm honorable intentions for future behavior. Likewise, an oath designed to punish abuses of perjury holds the same universal purpose as those seeking to penalize a fraudulent merchant. Applying these broader ideological approaches to Baltensberger's narrowly defined categories of the law produces a complementary understanding of how these diverse pieces of legislation ultimately serve mutual purposes for society.

"Truth" Within the Laws

"Truth," as a concept vulnerable to subjective interpretation, serves as a potentially undesirable basis for making legal decisions, especially when presented without other forms guaranteeing its accuracy. As a result, it is not surprising that statements of "truth" by

¹⁶⁹ Baltensberger frequently uses *Versprechen* 'pledge' interchangeably with *Eid* 'oath,' but is particularly free with his definitions of these terms in the section on *Treuschwur* 'vow' as he speaks about formalized oaths of vassalage. Such interchangeability in his translation, however, does not alter the usefulness of his distinct categories of purpose.

themselves serve in a very limited capacity within the Anglo-Saxon and Icelandic legal systems. While all judicial matters depend, to some degree, on the accuracy of “truth” available either to the defendant or the plaintiff, not all information is granted equal admittance within the confines of a courtroom.¹⁷⁰ Furthermore, not all types of evidence enjoy the same level of credibility, and the law naturally prefers those specialized forms of proof considered to be both reliable and consistent.¹⁷¹ For the medieval communities of England and Iceland, the simple honesty offered by a statement of the “truth” does not convey enough credibility for use by the general populace. Given the legal preference for formalized means of attestation, especially where the implementation of judicial punishments are concerned, it is worth considering why “truth” only appears under special circumstances for the benefit of an exclusive group with the permission to exercise such unqualified statements as legally admissible evidence.

While the oath and pledge, discussed below in this chapter, reflect predetermined and ritualized systems for offering credible statements, the alternative expression qualifying something as “true” employs comparably less rigidity in its structure. Looking at those few instances where flexibility is permitted in the creation of legal support, it is clear to see that the law is founded on fears about the potential mismanagement of sincerity, especially if this method of offering proof becomes available to the entire community. Understandably, this

¹⁷⁰Modern law in the United States frequently requires some information to be withheld from jurors during trials, thus limiting what can or cannot be considered as authentic evidence. Recently, however, Internet communication has threatened to undermine the effort of the legal system to insulate court cases from some knowledge. For more on the effort to authorize truth within the courtroom, see Ralph Artigliere, Jim Barton, and Bill Hahn, “Reining in Juror Misconduct: Practical Suggestions for Judges and Lawyers,” *The Florida Bar Journal* 84, no. 1 (2010): 8 – 18.

¹⁷¹ Construction of legal “reality” depends, in large part, on what information is considered as admissible. Preventing certain pieces of evidence from being accepted as valid can, reasonably, alter the course of any trial. For more on the construction of ‘truth’ and its relevance for the law, see David Nelken, “The Truth About Law’s Truth” in *European Yearbook in the Sociology of Law 1993*, eds. A. Febbrajo and D. Nelken (1994): 87 – 160.

apprehension originates with a concern that “truth” is a subjective construction which seems to be open to interpretation by each individual. If justice is based exclusively on a “truthful” testimony of two witnesses, it is possible the account of one might differ significantly from the other. Indeed, it is even possible that each speaker can still consider his or her own perspective as authentic, despite contradictions between the two accounts.¹⁷² Statements of “truth” also include few consequences of overt punishment when compared to those laws designed to curtail violations against oaths or pledges. Although “truth” presents a problematic combination of a non-ritualized structure and the potential for inconsistencies in testimony, Anglo-Saxon and Icelandic laws remarkably employ this form of language to provide legal verification – albeit in some very specialized circumstances.

So rare are appearances of “truth” as a means of offering legal proof that its significance can quickly be overshadowed by the larger and more formal means of sworn language. Only three passages from the corpus of Anglo-Saxon law rely on this attestation, and Icelandic legal texts exhibit a similar scarceness, with *Grágás* containing only two uses of the noun, *sannr*, and *Jónsbók* including only one.¹⁷³ The stringent application of this expression is proof of a deliberate limitation on the individuals with access to this type of sworn language. The Anglo-Saxon codes do not employ any of the forms of “truth” (*truá*, *tryggð*, or *treow*) associated with the modern English cognate of this word. Instead, only the noun *sop* is used consistently within

¹⁷² Modern law recognizes the potential for conflicting testimony and asks the jury to evaluate the credibility of each witness individually. See Sanja Ivkovic and Valerie Hans, “Jurors’ Evaluation of Expert Testimony: Judging the Messenger and the Message,” *Law & Social Inquiry* 28 (April 2003): 441-82. Medieval opinions of the “truth,” however, function as a zero-sum game whereby only one legal party is given the right to offer testimony as proof.

¹⁷³ This estimation considers only the noun forms of “truth” within the Old English and Icelandic laws. References to the adjectival description of “true,” appear with more frequency: at least 43 times in *Grágás* and 25 in *Jónsbók*. Very similar numbers are found in the Old English, where *sop* appears adjectivally in at least 14 different Anglo-Saxon laws. See Heinrich Beck, *Wortshatz der altisländischen Grágás* (Göttingen: Vandenhoeck & Ruprecht, 1993).

a legal context when verification is required without swearing or pledging. In contrast to the Old English reliance on only one expression, the laws of Iceland employ a more inclusive vocabulary of legal “truth.” Despite, however, finding all three nouns (*trúa*, *tryggðr*, and *sannr*) within the Icelandic law, their limited numbers also demonstrate deliberately limited usage to prevent unauthorized exploitation of this expression. Thus, the significance of “truth” as a legal expression is found in the deliberate management by legal authorities attempting to control its application.

Among the English, the earliest appearance of *sop* is found in a law of King Wihtræd, who governed the kingdom of Kent around the year 695.¹⁷⁴ Directly following a collection of laws stipulating punishment for individuals convicted of practicing witchcraft or violating religious fasts, the code outlines, in a series of nine edicts, a hierarchical progression of swearing necessary for the exoneration of potential defendants, dependent on the social status of the accused. This list begins at the top with provisions for testimony offered by a king or bishop and proceeds down the class structure until it reaches the method for clearing a slave accused of a crime. The series of laws begins by declaring *bioscopes word ond cyninges sie unlægne buton aþe*,¹⁷⁵ ‘the word of the bishop or of the king is incontrovertible without an oath.’ It seems only natural that the king, as political and military leader of the kingdom, is afforded special consideration as always speaking truthfully, even without offering an oath. Imbuing the bishop’s words with similarly unquestionable authority follows logically from his corresponding position as the spiritual sovereign without peer in the kingdom.¹⁷⁶ Although the bishop and king

¹⁷⁴ Lisi Oliver, *Beginnings of English Law* (Toronto: University of Toronto Press, 2002), p. 148.

¹⁷⁵ Wihtræd 16. *Gesetze*, 1:13.

¹⁷⁶ Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, (Oxford: Blackwell, 199), p. 102. Wormald characterizes most of Wihtræd’s legal code as being concerned primarily with defining the legal “status of the Church men in Kentish society.”

certainly have the ability to make oaths, the law absolves them from this activity because they do not have social equals capable of impugning their assertions.

Directly following the special status of the king and bishop as always speaking the “truth,” the code outlines the means of exonerating the next highest members of society. This law, directed specifically at the priests and rulers of monastic communities, calls for the use of *sōpe*, ‘by truth,’ rather than the oaths required for all subsequent individuals. The law reads: *Preost hine clænsie sylfæs sōpe, in his halgum hrægle ætforan wiofode ðus cweþende “Veritatem dico in Christo, non mentior.” Swylce deacon hine clænsie,*¹⁷⁷ ‘The priest should clear himself by his own truth, in his holy garments before the altar saying this: “I speak the truth in Christ, and do not deceive.” Likewise, a deacon should clear himself [of an accusation].’ While a ritualized statement in Latin in a prescribed location is still required of the speaker, the priests and monastic leaders are expressly allowed to avoid labeling their declarations as oaths. Every other person listed in Wihtræd’s collection of attestations is required to proclaim his innocence by means of an oath. The use of *sōp* for the religious community is, therefore, a deliberate and exclusive arrangement designed to highlight the special status of the clergy in England.

Although it may seem likely that only relying on “truth” opens the law up for exploitation, Wihtræd’s code is not without its justification in granting this special status to religious leaders. Of all social groups, the priestly community is believed to be the least likely to manipulate language dishonestly.¹⁷⁸ The expectation of the king is that the Church will only

¹⁷⁷ Wihtræd 18. *Gesetze*, 1:13.

¹⁷⁸ Although it is not uncommon for religious leaders to abuse their positions of moral authority, a certain expectation of trust is given to them due to the very nature of their occupation. For more about the intrinsic power of the clergy and its potential for abuse, see Stanley Grenz and Roy Bell, *Betrayal of Trust: Sexual Misconduct in the Pastorate* (Downers Grove, IL: Intervarsity Press, 1995).

select worthy candidates, bound by the sacramental rites of ordination to live virtuously, giving priests and deacons a moral credibility with which their words are trusted above all others.¹⁷⁹ Moreover, a very clear biblical justification exists to motivate Wihtræd's exemption of the clerical class. During the Sermon on the Mount, in Matthew 5:34, Jesus offers a very strong pronouncement against any form of swearing. He says: "But I say to you not to swear at all, neither by heaven, for it is the throne of God: nor by the earth, for it is his footstool: nor by Jerusalem, for it is the city of the great king: neither shall thou swear by thy head, because thou canst not make one hair white or black. But let your speech be yea, yea: no, no: and that which is over and above these, is of evil."¹⁸⁰ Although interpretation of this passage may encourage readers to see deliberate exaggeration to stress a moral point, the Kentish legislation of Wihtræd codifies this accommodation so that priests can still respond to accusations without literal disobedience of the Gospel prohibition.¹⁸¹ Of particular interest in this law, however, is the way that the Kentish version creates limitations beyond the biblical passage. While Jesus offers no restrictions on who should speak without swearing, the Kentish law is only comfortable granting this right to a select group who, in the ideal world, would be unlikely to abuse it. Herein we can see the gap between the religious ideals upon which the law is founded

¹⁷⁹ The existence of this specialized category raises questions about the qualifications of individuals entering the clergy during the early medieval period. The Icelandic struggle with clerical celibacy provides a clear example of how problematic regulating the behavior of priests could be for early medieval Christians. See Jenny M. Jochens, "The Church and Sexuality in Medieval Iceland," *Journal of Medieval History* 6.4 (December 1980): 377-92.

¹⁸⁰ Matt. 5:34-7.

¹⁸¹ Hyperbole in the Sermon on the Mount is commonly accepted as Jesus's means of pointing out how flawed human behavior can be. In the passages immediately preceding swearing, Jesus advises the removal of limbs associated with sinful behavior. Such an extreme action is frequently interpreted by religious commentators as being designed to focus the attention of the audience on their sinful behavior. For more, see David Buttrick, *Speaking Jesus: Homiletic Theology and the Sermon on the Mount* (Louisville, KY: Westminster John Knox Press, 2002).

and the reality that all individuals, even the clergy, are occasionally not trustworthy enough to credit with such an inclusive level of dependence on their language.

Looking beyond Wihtræd's law for priests, we find that swearing still occupies a significant place in the law, despite the biblical proscription to the contrary. Justification for legally obligated swearing must rationalize placing believers within a context where they are required to offer words beyond simply an account of "truth." Fortunately, just such an explanation is found within the laws of *Jónsbók*. One provision about oaths in the final chapters of the section addressing the crimes of theft simply states:

Af þuí at guð sialfr er sann leikr. þa vill hann þat huers mannz með sannleik ia sem ia er. en þat með sannendum nei sem nei er. en þo fyrir breyskleika sakir mannzins er sialldan truir berum orðum. þa heímtaz eiðar optliga ok fram flytiaz. ok er þat æigi synd sem satt er suarit.

Because God Himself is truth He wants that every man according to truth say "yes" when "yes" is required, but according to truth, "no" when "no" is required. But yet because of man's weakness – who seldom believes unsworn words – thus oaths are demanded and sworn often, and that is not a sin when they are truly sworn.¹⁸²

Legitimizing swearing allows for the Anglo-Saxon and Icelandic judicial systems to continue using this crucial feature without excluding Christian speakers. Placing the onus on the frailty of human behavior for an individual's failure to follow the law or to adequately honor Jesus's prohibition on oaths shrewdly absolves ecclesiastical and secular government from the responsibility of encouraging this activity.

¹⁸² *Jónsbók*, pp. 358-9.

Jónsbók outlines the three elements necessary for any oath to be legitimate: *sannleikr j reinni samuitzku. at hann sueri þat eitt er hann veit [ok] ætlar ef anarlaust satt wera*, ‘truth in clear conscience that he swears only what he knows and thinks without doubt to be true.’¹⁸³ Internalizing these requirements (conscience, knowledge, and belief) offers more rationalization for how Christians can continue to swear, since their statements continue to match what they believe to be the “truth.”¹⁸⁴ Thus, in the example cited above of the differing testimonies, neither party actually commits a sinful act if each witness speaks what he *believes* to be an accurate account. As trivial as this may seem to a modern audience, medieval lawmakers looking to continue the practice of taking oaths accept this rationalization as the means to preserve the spirit of the practice while making it palatable to Christian oath-takers.

In addition to confining “truth” to those individuals with the requisite sanctity to be trusted, subsequent legislation also employs this expression in situations where the conventional modes of attestation present challenges. One such law, issued by King Æthelstan at Exeter, employs “truth” in an attempt to address negligence and corruption among the royal officials governing the kingdom. Felix Liebermann dates this collection of ordinances to the decade between 927 and 937, and Patrick Wormald characterizes it as a body of legislation designed to urge adherence to earlier legislative efforts.¹⁸⁵ The failure of earlier laws to function properly offers motivation for Æthelstan’s next code and explains why the king turns from traditional methods of swearing when updating his laws at Exeter. Among this collection,

¹⁸³ Ibid, p. 359.

¹⁸⁴ Addressing intentions presumably upholds the spirit of letting one’s ‘yes be yes,’ even though those receiving this statement accept it in the form of the oath.

¹⁸⁵ Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, p. 292.

following a discussion of preventing bad conduct among retainers and lords, the law introduces the following provision regarding those in positions of supervision:

*And swylc gerefa swylc ðis forgemeleasie ond ymbe beon nylle, gesylle ðam cinge his oferhyrnesse, gif hit man him ongerecce mid soþe on he hine ungereccan ne mæge.*¹⁸⁶

And any reeve who is negligent of this [effort to prevent evil], and is not occupied with it, shall pay the king for insubordination, if one accuses him with truth and he cannot clear himself.

Æthelstan's ruling declares that any local representative of the king refusing to enforce the law will be subject to discipline. What makes the application of this penalty so noteworthy is that it places the burden of proof on the reeve, who must clear himself of the accusation of malfeasance in order to free himself. Instead of obliging a complainant to swear using sanctioned methods, the fine is applied if the claim is merely characterized as having been based in "truth," and if the reeve cannot defend himself. While this regulation depends primarily on the failure of the official to provide a defense against the charges, it bespeaks a serious royal concern over previous disobedience among shire officials. Wormald asserts that, "Æthelstan did face a serious conspiracy around 933, if not at his accession."¹⁸⁷ Any suspicions over the behavior of the reeves in working against the king are further confirmed by the prologue of Æthelstan's Exeter laws. The king writes, *ic hæbbe geahsod, þæt ure frið is wyrs gehealden, ðonne me lyste oppe hit æt Greetanlea gecweden wære*, 'I have discovered that our peace is kept worse than what pleased me or what was declared at Greatly.'¹⁸⁸ Allowing the conviction

¹⁸⁶ V Æthelstan 1,2. *Gesetze*, 1:168.

¹⁸⁷ Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, p. 307.

¹⁸⁸ V Æthelstan Prol. *Gesetze*, 1:166. The laws issued early at Greatly, II Æthelstan, reflect the king's desire to collate legislation and reform the inadequate laws covering a very broad scope of criminal actions.

of the reeve for only a statement of “truth” seeks to rebuild confidence that the representatives of royal authority will act with integrity and loyalty. Aethelstan’s law, therefore, addresses the legitimate fear that untrustworthy reeves could abuse their authority in order to frustrate legal testimony of their own criminal behavior.¹⁸⁹ The Exeter law addresses this by allowing any individual, even if he might otherwise lack necessary support for a full oath, to bring charges against a reeve for questionable behavior. Because an accusation with “truth” is enough to increase scrutiny on the reeve’s behavior, this inclusive means of proof serves as a significant deterrent for inappropriate behavior where more conventional methods of swearing might be susceptible to failure.

Following Æthelstan’s adaptation of “truth” to function as proof within a context not restricted only to members of the clergy, the last appearance of this type of sworn language is given even wider application and more force within the laws of King Edgar. The circumstances of this final Anglo-Saxon treatment of “truth” enhance the way such statements function not only as proof, but also as part of the qualities that make for a smoothly governed society. The shift from solely offering testimony toward a mindset of honesty also reflects a wider change in the political situation for the Anglo-Saxon ruler. Unlike the fear of political disobedience that pervades much of Æthelstan’s legal reform, Edgar’s reign is described by Frank Stenton as, “singularly devoid of recorded incident” to threaten his royal authority or encourage legal change.¹⁹⁰ Despite not facing as many concerns as his predecessors, King Edgar issues four

¹⁸⁹ According to *The Blackwell Encyclopaedia of Anglo-Saxon England*, “In Æthelstan’s laws [reeves] were responsible for the taking of pledges to keep the peace, for implementing the rulings on theft and the harbouring of criminals, for nominating men who would be witnesses at pleas in their districts.” Such authority might provide ample opportunity for a corrupt official to exert undue influence or tamper with evidence presented against him. *The Blackwell Encyclopaedia of Anglo-Saxon England*, Michael Lapidge, John Blair, Simon Keynes, and Donald Scragg, eds. (Oxford: Blackwell Publishing, 1999), s.v. reeve.

¹⁹⁰ Frank Stenton, *Anglo-Saxon England*, 3rd ed. (1971; reprint, Oxford: Clarendon Press, 1985), p. 368.

separate legislative codes as a means to bring stability to his kingdom. One such text, the Wihthbordesstan Code, dated by Liebermann to around 962, contains the longest of Edgar's legal passages and an inclusive reference to "truth" exploring the necessity of such statements. Wormald characterizes the laws originating from Wihthbordesstan as "more informal, and at the same time more flamboyant" than any others issued by Edgar.¹⁹¹ Such stylistic features may offer some evidence for why Edgar turns toward "truth" as the abstract means of speaking about justice in his kingdom. Moreover, Wormald also observes that, "the Wihthbordesstan Code was the first [issued by Edgar] that used Scandinavian terminology to any marked degree."¹⁹² Indeed, while discussing the duties of kingship, one law from Wihthbordesstan specifically mentions all three populations of *Englum ge Denum ge Bryttum*,¹⁹³ 'English and Danes and British,' which Edgar attempts to unite through the bonds of his common legal system. As a result, the universal concept of "truth" becomes the bridge Edgar can employ to unite the different cultural groups living under his overlordship. To accomplish this integration, the earlier restrictions about which individuals are allowed access to this form of judicial expression are notably removed, while the concept of "truth" becomes less a feature of judicial proof and more an indication of social order.

The prologue to the Wihthbordesstan Code begins with an announcement that Edgar seeks the remedy for a *færcwealme*, 'pestilence,' afflicting his kingdom.¹⁹⁴ Adjusting the law to prevent criminal behavior allows the king to end sinful practices among his nation, ultimately

¹⁹¹ Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, p. 319.

¹⁹² Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, p. 319.

¹⁹³ IV Eadgar 2,2. *Gesetze*, 1:210.

¹⁹⁴ IV Eadgar Prol. *Gesetze*, 1:206.

reciprocally leading to the departure of the physical affliction. This motivation explains why many of Edgar's laws are directed at stopping theft, governing honest trade, and enforcing the proper collection of tithes. Among such legal amendments, a healthy respect for "truth" appears central to an effort to cure the social ills plaguing the kingdom. In a manner similar to Æthelstan's rule enforcing the reeve's behavior, Edgar hopes to expand the use of "truth" so that it serves as proof and as a motivating factor in how all people act. The Wihthordestan law says:

*Mid Anglum ic hæbbe gecoren on min witan, hwæt seo steor beon mæge, gif ænig man mid anbyrdnesse beginð oþþe mid ealle ofslyhð ænigne þara þe ymbe þas smegunge bið ond þæt dyrne orf ameldað, oþþe þara ænigne þe on soðre gewitnesse bið ond mid his soðe þæne unscyldigean ahret ond þæne scyldigean rihtlice fordeð.*¹⁹⁵

I with my councilors have determined what the penalty will be among the English, if any one attempts resistance or openly slays another who is involved in this investigation [for theft] or who gives information about the stolen cattle, or anyone who is giving true witness and saves the innocent and rightly destroys the guilty by his truth.

Although this law is vague about the specifics of the penalty determined for the person obstructing the investigation, the legal narrative offers a respectful appreciation of the growing power of "truth" to protect against crime. Edgar's law states that by giving honest testimony, even without the formulaic structure inherent in formalized oath-taking, the witness is empowered to act as both the protector and the prosecutor of justice. The essence of "truth," spoken by the witness, is joined with the physical evidence of the obstruction to provide enough substantiation of the thief's guilt. While the key element here may seem to be the implicit admission of guilt of a person trying to obstruct testimony, the law focuses more of its praise on

¹⁹⁵ IV Eadgar 14. Gesetze, 1:214.

the honesty of the testimony. Despite the potential loss of the victim's ability to corroborate his testimony formally under oath, the "truth" itself is seen as sufficient to make the case. Edgar's law seeks, therefore, to inspire a truthful attitude as the ultimate foundation for justice by endowing it with more credibility than the act of swearing itself.

Although the Anglo-Saxon legal system seems to approach "truth" with a sense of cautious skepticism, the English are not alone in treating unqualified statements of honesty with a sense of unease. The Icelandic laws, particularly *Grágás* and *Jónsbók*, share the careful reservation that "truth" only functions on the periphery of lawfully credible statements. Two specific sections within this body of early law employ "truth" adjectivally in statements of honesty without requiring more formalized terms of swearing. The first is the expression *sannr at sök*, commonly translated as 'guilty,' literally 'true to the charge' against the individual. According to Heinrich Beck's *Wortschatz der altisländischen Grágás*, various morphological forms of *sannr* are employed in twelve different laws in this context.¹⁹⁶ In addition, *Jónsbók* includes ten references to *sannr* within the framework of expressing an individual's culpability. Because these conditional expressions of responsibility are such critical features of law, it is clear that the potential evaluation of legal accusations represents one of the most significant roles that "truth" plays within the laws of the Icelanders. No less significant than its use for ascribing guilt to an individual, the second adjectival form of "truth" appears within another formulaic legal phrase common to both *Grágás* and *Jónsbók*. Unlike the expression of culpability marked by *sannr at sök*, the phrase *sannaz ok réttaz*, 'most true and right,' serves as an affirmative statement designed to evaluate the quality of potential Icelandic lawsuits, supporting the legality of the claimant's case. Beck notes an additional seven appearances of

¹⁹⁶ Heinrich Beck. *Wortschatz der Altisländischen Grágás: Konungsbók* (Göttingen: Vandenhoeck and Ruprecht, 1993), p. 221.

this axiomatic language, all of which are used as clauses supporting the larger, more significant passages describing legal oaths.¹⁹⁷ As such, this superlative expression of truth attempts to offer qualifications for the pursuit of a case, which can justify its prosecution. For example, in Chapter 25 of *Grágás*, the formula for challenging a court requires the individual to declare *sem ec hygg sanazt oc rettast oc hellzt at logvm*,¹⁹⁸ ‘as I think most true and right and in accordance with the law.’¹⁹⁹ The key to this passage is the statement that this is measured not only in accordance with the individual’s belief, but ‘in accordance with the law.’ Thus, ‘truth’ itself is not employed without a guiding force to ensure its application. Similarly, in *Jónsbók*, the section describing the oath of the Law Council also includes the reference *sannazst fyrir guði*, ‘truest before God,’ as one of the expressions to certify the intention of the nominee to serve as an impartial judge.²⁰⁰ Although the direct legal reference (*réttaz*) has been removed in *Jónsbók*, the sense remains consistent with that found in the earlier laws. Just as this legislation acts as a verifying force regulating the ‘truth’ expressed in *Grágás*, the law in *Jónsbók* also relies on the external substantiation, in this case divine authority, to guide the application of the attestant’s honesty. Thus, the analysis of these two adjectival, formulaic legal expressions reveals some very clear facts about how ‘truth’ is employed within the law. There is only a very limited application for this term within the context of law. The prescribed oath-taking procedures that employ ‘truth’ include it as one component within the larger framework of the oath, guaranteeing that the

¹⁹⁷ Ibid., p 221.

¹⁹⁸ *Grágás. Islændernes lovbog I fristatens tid, udgivet efter det kongelige Bibliotheks Haandskrift.* Vilhjálmur Finsen, ed. 2 vols. (1852; reprint, Odense: Odense University Press, 1974), 1:46. Hereafter abbreviated as *K*.

¹⁹⁹ Andrew Dennis, Peter Foote, and Richard Perkins, eds and trans. *Laws of Early Iceland: Grágás, the Codex Regius of Grágás with material from other manuscripts*, 2 vols. (Winnipeg: University of Manitoba Press, 1980-2000), 1:59. Hereafter abbreviated as *Grágás*.

²⁰⁰ *Jónsbók*, pp. 12-3.

more substantial quality of the oath will cover any potential discrepancy in the more fluid concept of ‘truth.’²⁰¹ Likewise, because of the potential for differences of perception when it comes to the understanding of what is genuine, these laws also include external, idealized standards by which such expressions can be evaluated. These expressions depend on the law itself or divine agency to grant a sense of legitimacy to language that would otherwise be considered potentially too variable to be fully trusted in most legal contexts.

The Pledge in the Laws

Although the pledge is the more influential form of attestation when compared to statements of “truth,” it too does not enjoy either the prevalence or the distinction associated with taking an oath.²⁰² This limited currency can potentially be attributed to the fact that only certain contexts require this form of verbal exchange, thus restricting a widespread inclusion throughout the law. What ultimately distinguishes the pledge from its counterparts, the “truth” and the oath, is both its functionary role and the requirements it employs to meet these needs. Pledges serve a distinctive double function with two specialized legal meanings: either as the markers of solemn declarations exchanged with additional assurance of honesty or, more frequently, as affixing extra protection to agreements through a ritualized exchange of resources. The latter form, particularly in the laws of *Grágás* and *Jónsbók*, involves the guarantees of legal possession of land offered as a surety to encourage honesty. As a result, most pledges are driven not explicitly by the actual transfer of wealth, but rather by the

²⁰¹ The fluidity of the ‘truth’ can best be illustrated in a situation where two witnesses differ on their description of a suspect. When each one believes his testimony to be true, then it is possible that each could assert to be telling the truth based on his personal perspective.

²⁰² Based on a strictly numerical comparison of these two forms, the extent by which laws including pledging outnumber statements of “truth” appears to be slight. Beck accounts, for example, for only nine instances of pledging in *Grágás*. The distinction between these two forms, however, is based more on the quality rather than the quantity of these laws. As a result, those mentioning pledging express a more solid sense of what this form entails. Beck, *Wortschatz der Altisländischen Grágás: Konungsbók*, p. 311.

potential that these obligations will be exacted if expectations are not met. This form of swearing, therefore, uniquely combines the process of swearing with the legalized threat of confiscation as the means to encourage one's adherence to the details of the agreement.

Despite the tendency of some modern translators to conflate the pledge and the oath as equivalent forms, evidence from the laws themselves suggests that both the Anglo-Saxons and Icelanders understood these as distinct efforts, albeit subtly distinguished, to validate a speaker's intention. Confirmation of the pledge as an independent form of swearing appears in seven Old English laws that specifically pair the pledge with the oath, *wedd ond að*, as a formulaic combination.²⁰³ Rather than simply using one form of sworn language, the compilers of the legal texts join these two elements together to form a stronger bond of sincerity. This combination indicates that both forms must share a foundation of truthfulness satisfactory for law; nevertheless, the law purposely mentions them not as interchangeable alternatives, but as distinct legal expressions with their own unique functions. Æthelred's code, dated by Liebermann to 1008, includes a law that all good Christians must *word and weorc fadige mid rihte and að and wedd wærlíce healde*, 'properly direct words and deeds and faithfully hold oath and pledge' within a broader provision dictating proper Christian behavior.²⁰⁴ These laws reoccur within the institutes of Cnut, who also calls for the strict adherence of the community to higher standards of honesty so that *að ond wedd wærlíce healde*,²⁰⁵ 'they should hold strictly the oath and pledge.' While the oath and pledge initially appear to be two sides of the same coin, the Anglo-Saxon kings who issue laws about pledging intend this combined expression to

²⁰³ These seven laws are: Æfred 1,1; V Æthelred 22,2; VI Æthelred 28; I Cnut 19,1; Cnut 1020,14; V Æthelstan Prol.,3; and IV Æthelstan 3,2.

²⁰⁴ V. Æthelred 22, 2. *Gesetze*, 1:242.

²⁰⁵ I. Cnut 19,1. *Gesetze*, 1:300.

provide a very special function by enhancing the bonds between the individual swearing and the person receiving the promise. By evaluating the features separating the oath from the pledge, we can distinguish why each is critically important for the proper function of politics, trade, and daily life.

The clearest difference between pledging and oath-taking, shared by both Iceland and England, comes from the fact that the pledge is a form of sworn language more closely associated with an individual's material possessions. The Old Norse term *veð* and the Old English term *wedd* both appear in legal situations connected with the exchange of money or property, and such items are tied to verbal promises by means of the accounting of chattels or with the physical possessions serving as collateral for the statement. Two laws from *Grágás* involving the discussion of courts of confiscation – particularly for debt – discuss the need to consider initially honoring an individual's pledges before adjudging the financial penalties of law. According to Jesse L. Byock, during such courts, “men who could prove their claims had first right to the property, and then the chieftain could take his fee.”²⁰⁶ Given that such petitions for redress would be centered primarily on seeking compensation for injury, it is worth noting that the law does make certain provisions designed first to meet the demands of family honor.

Chapter 49 of *Grágás* reads:

*Jafnt skal þangat bva fe mál öll sem til scyllda doms. Oc sva of lanzvirðingar oc sva doma cono sitt fe ef hon átti eða veð mála ef voro. Oc hveriom sina avra fulla ef sva má. en ella iafnt skerpa sem at sculda domi.*²⁰⁷

²⁰⁶ Byock, *Medieval Iceland: Society, Sagas, and Power*, p. 90.

²⁰⁷ K, 1:85.

Suits concerning money are to be prepared for this court just as for a debt court, and similarly in the matter of land-valuing and in adjudging to the wife what property is hers, if she had any, and in redeeming pledges, if there were any, and to each his full amount if that may be, but otherwise equally reduced as at a debt court.²⁰⁸

While concern for the welfare of the deceased man's wife is clearly the law's primary concern, the claims of those individuals holding pledges with the decedant are noticeably given some priority in their attempt to recover their portion of the property offered to them in their verbal agreement. As a result, those with a claim against the honor of the deceased have the opportunity to enforce the terms of the dead man's pledge and thereby fulfill any outstanding obligations originating from this prior contract. The assurance of keeping the terms of the pledge intact, therefore, is ultimately enforced by ensuring early access to the collateral available to the court. Both parties involved in this form of sworn language are assured of the sanctity of the guarantor's promised surety being available to meet the obligation of the agreement.

Pledging is also closely linked with property ownership in both *Grágás* and *Jónsbók*, as the obligations of these verbal agreements are cautiously regulated in the laws monitoring the sale and purchase of assets. Like preemption, the legal right of an original seller to repurchase property for a fixed price, the pledge also brings outside parties into the traditional business transaction, which the law closely monitors.²⁰⁹ Much like a modern lien, where outstanding debts against the homeowner are transferred with the sale of the house, the *Landbrigða*, 'Land-

²⁰⁸ *Grágás* 1:90.

²⁰⁹ *Grágás* 2:392.

claims,’ sections of *Grágás* and *Jónsbók* make clear that the transfer of ownership does not invalidate previous commitments based on earlier pledges. Chapter 192 of *Grágás* reads:

*Ef maðr selr land sit manne oc vill hann legia alög mala eða lög veðr oc eigo þeir at hannelsaz þan mala sem þeir ero asáttir eða veð. Þan mala scal lysa at lög bergi eða þat veð sem þeir handsoloðuz hit næsta alþingi eptir cavp þeirra.*²¹⁰

If a man sells his land to someone and wishes to put a right of lawful preemption or a legal pledge on it, then he and the buyer have the right to make a formal agreement on the preemption right or pledge on which they are agreed. The preemption right or pledge on which they have formally agreed is to be published at Lögberg at the next General Assembly after their deal.²¹¹

The requirement that such arrangements be openly published annually at the Law Rock ensures that the collateral used to guarantee a pledge will not be devalued by selling it to a new owner. This prevents potential fraud because those using land as security will not be able to escape the responsibility of honoring their commitment by simply claiming that the property is no longer in their possession. The consistent value of the pledge is reaffirmed in *Jónsbók*, when the law states: *en þat er logueð at hann skal taka iafn marga ara sem skynsamir men vi virða at hann se vel af halldin*, ‘that is a legal pledge in another’s land: that he shall take as much money as six prudent men deem appropriate so that he is fully satisfied.’²¹² Allowing the jury to impose additional compensation for the pledge-holder makes certain that property transactions will not unduly destabilize the value of what is offered as guarantee within these arrangements.

²¹⁰ *K*, 2:98-9.

²¹¹ *Grágás* 2:118.

²¹² *Jónsbók*, pp. 166-7.

In addition to a judicious consideration of how to protect pledging in the face of challenging land-claims, the laws of *Jónsbók* also apply this form of sworn language in two instances involving livestock. Because domestic animals possess as much value as the land on which they feed, the involvement of pledging to regulate transactions involving these alternative forms of collateral seems only natural.²¹³ The first of these laws presents a situation very similar to those involving the transfer of landed property. The law states that, *nu er su kyr dauð en hann attí veð j annarri þa skal hann þa hafa fyrir sína kw*, ‘now if this cow dies and the owner has a pledge in another cow, then he is to have this cow for his cow.’²¹⁴ The law clearly states that, like the property that is transferred, honoring the obligations presented in a pledge takes precedent over the opportunity to discharge the original article upon which the pledge is stipulated, even in the instance of the accidental death of the animal. As a result, the owner of any such agreements can be confident in his ability to be compensated without the potential of a significant loophole. This requirement is made all the more forceful by the legislation preceding, where rent for livestock is exacted if the person who takes custody of the animal kills it deliberately. Thus, an individual pledging his cattle as surety could not avoid the commitment by simply killing the beasts as a deliberate means to escape the responsibility of the debt.

Jónsbók additionally stipulates that word of an individual’s pledge should be honored, even when the speaker is challenged by poverty or other demands that might undermine his ability to meet his obligation. This provision is most clearly expressed when the typical roles of the pledge agreement have already been reversed. When livestock, which was previously used

²¹³ For more about the value of cattle, see Svein H. Gullbekk, “Money and Its Use in the Saga Society: Silver, Coins, and Commodity Money,” in *Viking Settlements and Viking Society*, ed. Svavar Sigmundsson (Reykjavik: University of Iceland Press, 2012), p. 179.

²¹⁴ *Jónsbók*, pp. 316-7.

as collateral, is again in the possession of the individual to whom they are owed, the law orders the pledge of future payment alone to be sufficient enough to restore the animals to their former owner, especially if this action will prevent starvation for the one requesting the return of the animals. The law says: *þa skal hann veðleggja eða fa vorðzlu mann iafn godan veði*, ‘then he is to give a pledge or provide a guarantor as good as a pledge.’²¹⁵ Implied within this segment is a desire to have compassion on those members of society who are least able to afford the punishment of mistrust; yet returning the livestock to an owner so close to poverty forces a serious risk that compensation may never be forthcoming should the arrangement fail.

While it might seem that a law designed to force the return of collateral to a financially risky owner would undermine the potential for pledging to function properly, *Jónsbók* includes additional regulations that make the situation outlined above the exception rather than the rule. Within the chapter specifically covering pledging, ownership of the valuable used for collateral seems to pass, albeit temporarily, to the individual accepting the pledge. The law states: *Nu legr maðr oðrum veð fyrir einn huern lut. þa skal sa abyrgiaz veð er tekr*, ‘now if someone gives another man a pledge in return for something of value, then the one who receives the pledge is to be responsible for it.’²¹⁶ As a result of this practice, the burden of reclaiming property used as surety rests squarely on the shoulders of the party offering the pledge. This law clearly provides a motivation for the speaker to remain honest to the terms of the arrangement in order to recover the item, yet it does so by clearly mistrusting that language can correspond to the value of the asset. Indeed, this same law requires that all such transactions should be carefully monitored to prevent fraud. All items acting as collateral require that *skal veð wirða*, ‘he should

²¹⁵ *Jónsbók*, pp. 224-5.

²¹⁶ *Jónsbók*, pp. 324-5.

have the pledge assessed.”²¹⁷ Such an appraisal could prevent the awkward situation where multiple claims are present for the same piece of property, but most likely they are designed to ensure that the item offered can match the value stated by the language of the pledge. As a result, the pledge is an appealing form of sworn language because it produces both valued property, whose worth is clearly established, to meet the needs of the agreement, while also transferring the care for that guarantee into the hands of the party accepting it.²¹⁸ As a result, the pledge offers the most flexible form of swearing because the incentives to recognize it as legitimate are contained within its system of surety. Even if an individual’s social situation makes his word otherwise questionable, as with cases of destitution or accusations of lawbreaking, the inbuilt system of offering up inducement in the form of physical property ensures that everyone can have access to this form of swearing, provided that the value of the pledged property assuages any original concerns about the speaker’s honesty.

While Icelandic law makes pledging a desirable form of arranging financial dealings, especially when additional guarantees for veracity are needed, Anglo-Saxon law proves more accommodating of such exchanges when criminal allegations undermine a speaker’s credibility. Pledges act, for the English, more like the modern exchange of bail, where the money grants freedom and provides incentive to prevent further criminal conduct on behalf of the person pledging it.²¹⁹ Extending beyond an ordinary agreement for repayment, such laws link the concepts of compensation with the idea of surety as a form of regulatory practice. For example,

²¹⁷ *Jónsbók*, pp. 324-5.

²¹⁸ Edward G. Gallagher, ed., *The Law of Suretyship*, 2nd ed. (Chicago: American Bar Association, 2000), p. 8.

²¹⁹ Burton F. Brody, “Anglo-Saxon Contract Law: A Social Analysis,” *DePaul Law Review* 19 (1969): 270 - 86.

the law code of Ine, who ruled the West Saxons from 688 to 726,²²⁰ states that, *gif hwa him ryhtes bidde deforan hwelcum scirmen oððe oþrum deman ond abiddan ne mæge, ond him wedd sellan nelle, gebete XXX schill*,²²¹ ‘if anyone demands justice in the presence of any shire-man or of another judge and he cannot get it, since he will not give a pledge to him, he should pay thirty shillings as compensation.’ Both Liebermann and Frederick Attenborough interpret the internal clause about denied pledges, along with the statement about the fine, to be directed at the individual originally accused of the crime.²²² This would suggest that the pledge requested of the defendant is critically important to the process, and his denial of that agreement is treated as an offence worthy of garnering a substantial fine.²²³ Indeed, denying the surety of the pledge, as defined by Ine 8, does not actually affect the guilt or innocence of the accused; instead, this law merely addresses the refusal of an individual to participate in the system designed to enhance the pecuniary penalty for convicted criminals. Requiring the pledge of all citizens, furthermore, makes certain that every member of society is keenly aware of the personal responsibility needed to facilitate the advancement of justice through honesty.

While pledging during the reign of Ine seems closely tied to the need for honest participation in the judicial system, the role of such agreements is further developed within the laws of ninth-century Wessex. King Alfred specifically links violations of the pledge with

²²⁰ For regnal dates of kings and law codes, see Carole Hough, “Legal and Documentary Writings,” *A Companion to Anglo-Saxon Literature*, Phillip Pulsiano and Elaine Treharne, eds. (Oxford: Blackwells Publishers, 2001), p. 176.

²²¹ Ine 8. *Gesetze* 1:92.

²²² Liebermann suggests adding *Verklagter*, ‘the accused,’ within the phrase about pledging to clarify which party has refused to swear and who must subsequently offer payment for that denial. See *Gesetze* 1:93.

²²³ Ine will later stipulate that anyone convicted of *wed aleoge*, ‘repudiating a pledge’ in the presence of a bishop is also required to pay four times as much (120 schillings) in compensation. See Ine 13, *Gesetze* 1:94.

punishments designed to exact a physical and spiritual price from those guilty of neglecting the responsibility of such promises. The law states: *Gif he þonne þæs widdige þe him riht sy to gelæstanne ond þæt aleoge, selle mid eaðmedum his wæpn ond his æhta his freondum to gehealdanne*,²²⁴ ‘If he then pledges himself to something which is lawful and proves false to his pledge, he shall give with humility his weapons and possessions to his friends to keep.’ While the forty-day period of incarceration that follows would suggest that the relinquished property might be restored after the time is served, the message Alfred sends about the serious economic and religious ramifications of pledge-breaking is absolutely clear. Later in the same code, Alfred again provides for financial punishment for *borgbryce*, ‘violation of bail,’ to be paired with similar spiritual punishment for *wedbryce*, ‘pledge-breaking,’ that is *scrift scrife*, ‘penance prescribed by his confessor.’²²⁵ Under Alfred, the speaker making the pledge offers both moral and economic capital as a means of holding himself to the words expressed within the agreement.

A few decades later, under the reign of Æthelred in England, pledging begins to develop into a preventive means to bind the defendant to the system of prosecution by exacting a penalty for refusal to participate properly in the judicial process. Æthelred’s code established at Wantage most clearly expresses the expanding role of pledging, as it contains two separate laws related to pledging as a means to secure financial guarantees against suspected criminals. Wormald asserts that the Wantage code demonstrates clear signs of Scandinavian influence and that it contains “particular reference to the Danelaw” in both its vocabulary and composition.²²⁶

²²⁴ Ælfred 1,2. *Gesetze* 1:48.

²²⁵ Ælfred 1,8. *Gesetze* 1:48.

²²⁶ Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, p. 322.

Given the tenuous relationships between the Anglo-Saxons and the Danes, it is ultimately not surprising that assurances based on sworn language are reemphasized as a unifying force of social relationships within the Wantage code. Indeed, the two regulations relating to pledging involve the transfer of money as the means to proactively inhibit the possibility of criminal behavior. The first of these relates to the arrest of *tihthysian men*, ‘men laboring under many accusations’ whom the shire reeve is pursuing for further legal action. Æthelred urges that each man of such dubious reputation *syllle VI healfmarc wedd*, ‘give six half-marks as a pledge.’²²⁷ Regardless of whether this pledge of money is designed to hold the accused against the possibility of flight or to incentivize prosecution of criminals by placing funds in the hands of the reeve and members of the district, it modifies the relationship of such agreements so that pledging becomes a proactive force to reduce the influence of dangerous individuals on society. In a similar manner, the second law regarding pledging requires *gif hwa þeof clænsian wylle, lecge on C to wedde*, ‘if anyone wants to clear a thief, let him place one hundred [silver marks] as a pledge.’²²⁸ The law again places newfound authority in the hands of the person accepting such a pledge to insure the safety of the realm by encouraging the community to thoroughly test the reputation of those accused of theft. By requiring the exchange of money at the outset of such proceedings, the law makes certain that only those defendants who are confident in their innocence will be willing to risk the potential loss of money required by this exchange. As a result, the purpose of the pledge moves further from its original intention of compelling behavior from a speaker and toward a new role in the safeguarding of intentions for the individual who is already accused of committing a crime.

²²⁷ III Æthelred 3,2. *Gesetze* 1:228.

²²⁸ III Æthelred 7. *Gesetze* 1:230.

In summary, the pledge performs a number of critical roles within the laws of early medieval England and Iceland. Marked by its clear association with the exchange of property and money as collateral, this distinctive form of swearing has a close affinity to business and trade relationships. The constraint on behavior dictated by the offer of physical security necessitates a bond far stronger than that elicited by mere statements of “truth,” yet these agreements also appear more capable of adapting the introduction of additional requirements to their purpose. As a result, the pledge also serves in many laws beyond the realm of commerce to project assurance when questions of loyalty or honesty threaten to undermine confidence in an individual: these pledges further safeguard social stability by offsetting challenges to trust with monetary compensation. Indeed, the addition of further commitments to the pledge provides extra legal protection by offering further punishment should the surety be confiscated, thereby making the risk greater to accused thieves or individuals of dubious character. As such, the pledge effectively develops as a legal means to add another layer of prevention against dishonesty that is marked by its flexibility, effectiveness, and strength as an alternative form of sworn language.

THE OATH IN ANGLO-SAXON AND ICELANDIC LAW

The Coronation Oath

In following the classification system instituted by Baltensberger, the coronation oath, or *Krönungseid*, is a fitting place to continue this survey of legal swearing. This oath-type is perhaps the most narrow in regard to both its purpose (to legitimize the reign of the new ruler) and usage (available to a king at the time of his investiture); yet, this oath also provides a prime example of how swearing can be used in the broader context of attempting to bind the community together under one centralized authority. Likewise, the *Krönungseid* is closely linked to the concept of reciprocal exchange, whereby the king’s promise to act as the agent enforcing

justice is met by his supporters' own pledges to remain loyal to his rule. Coronation oaths, therefore, are useful, illustrative examples of the idealized forces behind sworn language. They are accompanied by solemn ceremonial acts, make use of symbolic representations of power (the crown), are conducted before witnesses, and they rely on spoken statements to guarantee the fulfillment of one's expected role. For both the king and his subjects, the coronation oath is the ultimate category of swearing because it joins these individuals together within the bonds of community, thereby classifying all those outside of the oath-taking as 'others.' For these reasons, the oaths exchanged during a royal coronation are an appropriate opening for our exploration of oath-taking in both the Anglo-Saxon and Icelandic laws.

Although coronation oaths are not found in the earliest Icelandic laws of *Grágás*, those settlers who emigrated from Norway to escape the tightening royal authority there must surely have been aware of the requirements of such acts. Jóhannesson's discussion of *Íslendinga Saga* notes that a major motivation for the settlement of Iceland is the effort of King Harald Finehair and his supporters to "extend their authority over the entire country, and then to suppress all acts of violence within [Norway's] boundaries."²²⁹ Such increases in royal authority, naturally, are accompanied by an escalation in Harald's efforts to secure loyalty and to project his rising power. As a result, it is safe to assume that those chieftains seeking relocation may have fled to Iceland because of the social pressure to swear allegiance to King Harald in the wake of his conquests; therefore, these Norwegian colonists were, at the very least, familiar with the corresponding oaths required by the king for those former enemies wishing to become his subjects.²³⁰ *Haralds Saga ins Hárfagra* supplies the details about the requirements of these

²²⁹ Jóhannesson, *Íslendinga Saga*, p. 25.

²³⁰ There is some scholarly debate about how seriously the accounts of the ruthless Norwegian kings can be taken as the major motivating force for Icelandic settlement. Gert Kreutzer argues: *Die Figur dieses norwegischen Königs scheint ja als Projektionsfläche isländischer Staatsauffassungen aus mehreren*

exchanges, particularly for those Norwegians facing the tough choice of surrendering to the king. After describing the battle of Hafrsfjord, the saga states: *Margir váru þeir ok ríkismenn, er gengu til handa Harald konungi ok gerðusk hans men ok byggðu lond með honum*,²³¹ ‘There were many powerful men who surrendered to King Harald and became his men and dwelt in the land with him.’ Although the expression *gengu til handa Harald konungi*, literally translated as “put themselves into the hands of King Harald,” does not expressly mention the defeated warriors offering oaths to the victorious king, the implications for oath-taking supplied by this statement are perfectly clear. Indeed, even the reference to placing oneself in another’s hands provides an image tantalizingly similar to that of a feudal vassal placing his own hands within the hands of the liege lord, an act often associated with oath-taking within a context of expressing future loyalty.²³² While construing this statement as anything more than a general declaration of surrender by Harald’s opponents runs the risk of over-interpreting such evidence, it is clear that the act of submission to King Harald requires some type of formal guarantee against future opposition to his rule by Norway’s aristocracy. The exchange of oaths between king and

Gründen besonders prädestiniert (“The figure of this Norwegian king seems to be particularly suitable for the projection of Icelandic perceptions about government for many reasons”). While Kreutzer makes a valid point about not reading the image of a villainous King Harald too closely, there is some legitimacy in considering how the mechanisms of royal power many have been employed by this rising king. For more on this argument, see Gert Kreutzer, “Das Bild Harald Schönhaars in der altisländischen Literatur” in *Studien zum Altgermanischen: Festschrift für Heinrich Beck*, ed. Heiko Uecker (New York: Gruyter, 1994), p. 444.

²³¹ Bjarni Aðalbjarnarson, ed., *Haralds Saga ins Hárfagra* in *Heimskringla*, vol. 26 of *ÍF* (1941; reprint, Reykjavík: Íslenska Fornritafélag, 2002), p. 118. Hereafter abbreviated *Haralds Saga*.

²³² The joining of hands is an integral performative act in the typical late medieval ceremony of swearing fealty to a king. Visual evidence depicting the vassal placing his hands inside his lord’s hands abounds in later medieval illumination. The *Liber feudorum maior* of twelfth-century Aragon, for example, contains many such images featuring the joining of hands as a means to endorse agreements. In spite of such later associations, however, it is not possible to read these lines as truly depicting such an act within an Icelandic context. For additional information about the *Liber feudorum maior*, see Adam Kosto, “The *Liber feudorum maior* of the Counts of Barcelona: the Cartulary as an Expression of Power,” *Journal of Medieval History* 27 (2001): 1-22.

subjects, like those used during the coronation, provides the relationships necessary to inspire the security of Harald's reign subsequently described by the saga narrative.²³³ Thus, there is no reason to doubt that, although they did not employ such features for themselves in their earliest laws, Iceland's first settlers from Norway did understand the nature of coronation oaths and their importance for the structure of government.

Grágás clearly does not include any coronation oaths among its many legal formulae, but the later Icelandic laws of *Jónsbók* do feature this important legal ritual in a noteworthy way.²³⁴ The scribe of the Skálholtsbók manuscript of *Jónsbók* initially breaks from his presentation of the Christian laws in the second section by omitting the laws of King Magnús for both royal succession and the exchange of oaths necessary for the coronation of a new king.²³⁵ As a result, it might initially seem that the Skálholtsbók manuscript of *Jónsbók* too does not apply the power of royal oath-taking to the context of inaugurating the king's ascension to the throne or the affirmation of householders to follow his rule. Because no Icelander could hope to ascend to the Norwegian throne legally, the omission of these regulations in the Skálholtsbók manuscript does not appear unreasonable in a book designed specifically for use in Iceland. However, after the legal amendments of Eiríkr and Hákon, the scribe supplies the missing sections regarding coronation procedures. It is possible that the motivation for including the chapters on succession and coronation could reflect a simple desire to present a thoroughly complete copy of the law, but it is also likely that the missing provisions are appended as a way

²³³ The saga reports: *Eptir orrostu þessa fekk Haraldr konungr enga mótstoðu í Nóregi*, 'After this battle King Harald met no opposition in Norway.' *Haralds Saga*, p. 117.

²³⁴ Virtually every manuscript of *Jónsbók* includes a coronation oath in the appropriate location, however, Skálholtsbók is worthy of note for the way it omits and then reintroduces the section on the king's oath. It is useful to consider this anomaly because it reveals how important this oath is for the Icelandic scribe of the manuscript.

²³⁵ Schulman, "Introduction," *Jónsbók*, p. xxi

of highlighting the supremacy of royal authority over the island.²³⁶ Given the initial complaints by Iceland about the Norwegian legal code, *Jarnsiða*, it is possible the final chapter of *Jónsbók* is devoted specifically to the oaths sworn by kings, royal officials, and householders during the coronation to remind the Icelanders of both the king's responsibility to ensure equitable law and the population's duty to support their ruler.²³⁷ As a result, it is the coronation oath (and those given in response to the king) that ties together the entire framework of the law by reasserting national identity and drawing attention to the obligations of each member of society. In this respect, the laws for royal coronations in Iceland and Anglo-Saxon England serve a similar purpose in drawing a population together into one unified group.

The Anglo-Saxon institution of coronation pre-dates those included in *Jónsbók* by almost three centuries, yet the larger purpose of such oaths in building community remains very similar. Although the first written records of coronation law in England are dated by Liebermann to the last quarter of the tenth century and attributed to Archbishop Dunstan, the origins of these rituals are undoubtedly founded upon traditions reaching back to earlier times.²³⁸ The account of King Alfred's rise to power, for example, depicted in the *De Rebus gestis Aelfredi*, provides some clues to the importance of mutual agreement in establishing the leadership of the king. Asser writes: *totius regni gubernacula, divino concedente nutu, cum summa omnium illius regni accolarum voluntate, confestim fratre defuncto suscepit*,²³⁹ '[Alfred]

²³⁶ This is proven by the fact that the sections regarding earls and presiding judges are still absent from the manuscript even after the sections regarding royal inheritance and the king's oath are resupplied. Ibid, p. xxii.

²³⁷ This section may also be a subtle reminder of the *Gamli Sättmáli* where both the Norwegian king and Icelandic chieftains exchange sworn statements of support.

²³⁸ Promissio regis. *Gesetze*, 1:214.

²³⁹ Asser's *Life of King Alfred: Together with the Annals of Saint Neots*, ed. William Henry Stevenson (Oxford: Clarendon Press, 1904), p. 32.

took up the entire government of the kingdom, by permission of divine will, and with consent of all those inhabitants of the kingdom, after his brother died.’ The central element in this description of Alfred’s rise to power qualifies his reign as dependent on both a heavenly confirmation and the mutual endorsement of his community. Given that the coronation oath recorded by Dunstan includes statements appealing to similar spiritual and social approval, it can be inferred that Alfred too must have relied on some manner of ritualistic exchange of promises to substantiate his claim for Wessex. As Thomas Hill argues, Asser’s depiction of Alfred clearly defines him as a valid ruler by means of the language used to describe his ascension, particularly highlighting the bravery and wisdom that authenticate his kingship.²⁴⁰ Despite Asser’s partiality for Alfred and his motivation to depict him in a more regal light, there is further justification for reading this scenario as a starting point for the Anglo-Saxon coronation oath. Shortly after describing Alfred’s rise to power, the narrative reports on a series of negotiations with the Danish raiders involving swearing to certify their peace treaties. This culminates in the actual exchange of oaths sworn by the leaders of the Danish invaders using relics to verify the treaty.²⁴¹ Clearly Alfred, more than any of the Anglo-Saxon kings before him, relies on the legal power of the oath as a means to derive supremacy over his kingdom and then over his opponents. The coronation oath, under the command of a capable king like Alfred, becomes the stepping stone for the extension of royal authority by building consensus by means of a contractual relationship between the king and the population. Much like the story of the early

²⁴⁰ Thomas D. Hill, “The Crowning of Alfred and the *Topos of Sapientia et Fortitudo* in Asser’s *Life of King Alfred*,” *Neophilologus* 86.3 (2002): 471-6.

²⁴¹ *Cui ille exercitus electos obsides, quantos ipse solus nominavit, sine ulla controversia dedit, necnon et sacramentum in omnibus reliquiis, quibus ille rex maxime post Deum confidebat, iuravit, (in quibus nec alicui genti prius iurare voluit) citissime de regno suo se exiturum esse.* ‘The army gave him as many chosen hostages as he chose himself, without any dispute, and they also swore on all the relics in which the king placed the greatest trust after God (and on which they had never before wished to take an oath to any people), that they would leave the kingdom most rapidly.’ See Asser’s *Life of King Alfred*, p. 37

Icelanders, there is a level of speculation about the earliest experiences of the Anglo-Saxons with coronation oaths; yet, from these murky beginnings, it is still possible to discern how significant oath-taking in royal contexts becomes for both peoples.

Though the actual coronation oaths included in Dunstan's *Promissio regis* and *Jónsbók* are relatively straightforward, they both provide some interesting clues about the usefulness of such expressions and the reliance of both the Anglo-Saxons and Icelanders on similar expressions of promise. These are best found in the commentary included by the scribe between the formulae offered for each classification of oath-taker. For example, while there is nothing unexpected about the *Jónsbók* account of the king being required *þau kristín laug hallda*, 'to uphold the Christian laws,' it is what precedes this expression that offers more insight into the relationship established between ruler and subjects within the coronation oath itself. The scribe explains the king's requirement to swear to his intentions by saying: *en at konungr viti sík þui helldr skyldugan log at hallda*, 'and so that the king knows himself more required to uphold the laws.'²⁴² In a similar way, the oath of Dunstan's *Promissio* also starts with assurances for the protection of *Godes cyrice ond ealle Cristen folc*, 'God's church and all Christian people.'²⁴³ Yet, just as with *Jónsbók*, it is the circumstance behind the actual words that prove to be most fascinating. The preface to the *Promissio* states that Dunstan issued a challenge to the king that *forbead him ælc wedd to syllanne butan þysan*, 'prohibited him to give any pledge except this one.' This prefatory statement reveals the desire for consistency in the king's coronation, and like the words offered in *Jónsbók*, it also ensures that the king is aware of exactly what will be required of him to rule.

²⁴² *Jónsbók*, p. 457.

²⁴³ *Promissio regis. Gesetze*, 1:214.

Beyond the simple assurances of an informed king, the *Krönungseid* also fulfills multiple purposes by conferring on the king his role as defender of justice and simultaneously alleviating the concerns of the populace that he will not dishonestly violate the laws he has sworn to uphold. As such, the king's coronation oath binds him to the community with very specific ritualized legal formulae to make him ultimately accountable for the proper implementation of lawful behavior. This relationship is reinforced by the line within the *Jónsbók* oath-formulae stating that the law is to be amended *eptir þúi víti sem guð lérr mer*, 'in accordance with the reason that God grants me.'²⁴⁴ The king's administration of governance, therefore, is not free to be changed at will without justification. In a similar way, Dunstan's coronation oath requires the king to judge *on eallum dómum riht ond mildheortnisse*, 'with justice and mercy in all judgments.'²⁴⁵ The religious implication of this line is completed in the resulting clause stating that through the king's mercy and justice on earth, God's grace and mercy is delivered to the people. As such, both coronation oaths emphasize the divine nature of the king's relationship to the law, a bond that the oath itself serves to complete by linking the king to the physical manifestation of holiness (the relic) upon which he swears. Ultimately, the coronation oaths that appear in the later laws of Anglo-Saxon England and Iceland are designed not only to appease concerns over potentially abusive rulers, but also to remind the audience of this event that the king is closely linked to the divine because he is the one person responsible for upholding the honest application of the law within the community.

Oath of Office

²⁴⁴ *Jónsbók*, p. 457.

²⁴⁵ *Promissio regis. Gesetze*, 1:214.

Closely related to the oath of coronation is the *Bestätigungseid*, ‘confirmation-oath,’ offered by those officials who participate in the administration of the king’s justice. Baltensberger conceives of this category to describe those nobles on the Anglo-Saxon *Witan*, ‘royal council,’ who work together with the king *Gute Gesetze zu gehen und schlechte zu entfernen*, ‘to propagate acceptable laws and remove bad ones.’²⁴⁶ Such expressions reemphasize the socially unifying quality of the law and affirm its authority by lending broader enforcement among the people. Baltensberger explains that many kings, like Æthelberht, Hlothaere, Eadric, and Wihtræd, were solely responsible for their laws, while Alfred and those kings following him are more inclusive in the way they jointly affirm the role of others in implementing these codes. The culmination of such expressions of support is found in the tenth section of Æthelstan VI, which states: *þæt þa witan ealle sealdan heora wedd ealle togædere þam arcebiscope æt þunresfelda, þa Ælfeah Stybb ond Brihtnoð Odan sunu cōman togeanes þam gemote þæs cinges worde, þat ælc gerefa name þæt wedd on his agenre scire...*²⁴⁷ ‘The entire council all together gave their pledge to the archbishop at Thunresfield, where Ælfeah Stybb and Brihtnoth, Odda’s son, came together for the meeting of the king’s word, that each reeve take the pledge in his own shire...’ In offering their solemn pledges to support this royal pronouncement, every member of the council becomes bound to the process of its implementation. They must now act, like the king, to ensure that all members of their community take the oath legitimately and honor what they have said. This change in legal administration is an adroit effort to safeguard the sanctity of the law by means of an additional level of legal protection. Should any individual initially refuse to swear to uphold the law, his

²⁴⁶Baltensberger, *Eid, Versprechen und Treuschwur bei den Angelsachsen*, p. 17.

²⁴⁷ VI Æþelstan 10. *Gesetze*, 1: 181.

behavior will instantly become suspect. Likewise, the councilor under whose jurisdiction the offender lives will be required to punish him, for fear that any lapse in swearing may invalidate his own oath offered at Thunresfield. The king has, in effect, presented a clever way to ensure adherence to the law while equally distributing the means of enforcement down to the community level, where observation of aberrant behavior is more likely to take place. This also allows the judicial system to exact an even higher penalty for lawbreaking, because the criminal can be convicted both of the original crime and for the failure to adhere to his pledge regarding the law.

While the *Bestätigungseid* is employed quite effectively by later Anglo-Saxon kings to distribute the burden of law enforcement, it takes on a much more relevant role among the early commonwealth of Iceland, where such legal promises for the accurate implementation of the law are even more critical. Because the early Icelandic government empowers the *lögsögumaðr*²⁴⁸ to serve as a dispenser of justice without explicitly granting him the authority to enforce any legal judgment, the law places “emphasis on the integrity of the individual human being” to uphold his individual role in the preservation of justice until the thirteenth-century unification with Norway introduces royal justices.²⁴⁹ Yet before a litigant can feel comfortable trusting that his case is receiving equitable treatment, some level of verbal assurance needs to be given. Therefore, every man nominated before the Law Council to serve as a judge is required, as stated in *Grágás*, to obtain the oath of his nominating chieftain that *ek nefni*

²⁴⁸ The law speaker is a political position in Icelandic civil society, which lasts for a term of three years, and involves the memorization and recitation of one-third of the law yearly. Additionally, the law speaker served as arbiter of legal disputes and transmission and preservation of the legal ritual.

²⁴⁹ Sørensen, “Social Institutions and Belief Systems of Medieval,” p. 21.

þegn,²⁵⁰ “I nominate a good man and true” with the integrity to uphold the law reliably.²⁵¹ To swear that a man is “good and true” initially sounds very casual, but it is indeed a serious designation that testifies to that individual’s quality for seeking the truth and conducting himself with proper behavior. Although it may seem superficial to demand this oath of the nominating chieftain regarding his candidate, it assures the community that the potential judge is honorable enough not to be swayed by corruption. Moreover, this also ensures that the man in question will not be influenced by excessive loyalty to the chieftain who nominates him. The chieftain’s oath also requires him to determine that *er eigi vili anar maðr betr raða fyrir lögom órum eða landz bvi en sia maðr. þeirra manna er ec eiga cost iminom þirðiungi her a þingi*,²⁵² “no one is more able and willing to bear responsibility for our laws and common weal among those I have to choose from in my assembly.”²⁵³ The litigants are, therefore, assured that they are receiving only the best candidate who does not have a personal bias or who does not stand to gain anything through the corruption of the law.

Just as the chieftain certifies his choice for the court with the profession of an oath, the men selected to preside over legal cases as judges also need to confirm their moral positions before they can begin interpreting the law. The oaths for the confirmation of the judges are designed to provide additional scrutiny to their character as the mediators of the law. *Grágás* says that: *þat er oc aðr þeir tace adomi sínom. at þeir scola eið vina aðr nema þeir hafe uninn*

²⁵⁰ *K*, 1:78. The term *þegn* denotes a special category of Icelanders with an economic and social standing that distinguishes its members for their wealth and power.

²⁵¹ *Grágás*, 1:84.

²⁵² *K*, 1:79.

²⁵³ *Grágás*, 1:85.

aðr,²⁵⁴ “It is also prescribed that before they [can] begin their judging, they are to swear an oath, unless they have already sworn.”²⁵⁵ The oath offers assurance to all the parties involved in the case that the judges’ decisions will be performed according to the law and not motivated by personal gain. *Jónsbók* adds to the oath of the judge that he swear *fyrir guði*, ‘before God’ to serve in a responsible manner.²⁵⁶ Adding this religious reference links the process of swearing back to the soul of the person, as well as placing a futurity to any punishment dispensed for a breach of this oath. God will, in the end, hold the judge spiritually responsible for how he performs his legal duty, providing him with a strong incentive not to take this oath carelessly. Thus, no conscientious interpreter of the law should be willing to use his position of authority to abuse the law under the threat of such punishments.²⁵⁷

Not only does Icelandic law demand official pledges of impartiality and good conduct from those individuals called forward as judges and the chieftains who nominate them, it also includes a formulaic oath required for any person in the court who wishes to present a case for trial. Prior to beginning this litigation, the plaintiff is obliged to swear an oath in the presence of the accused and two other witnesses that the case is conducted in a legitimate manner. Such oaths ask for verification that: *ec mun sva sækja soc mina a hendr honom... sem ec hyg sanaz oc réttaz oc hellzt at lögom. oc ec hyg hann sanan at söc þeirre er ec hefi ahendi honom... oc ec hefca fe boðit l dom þena til liðs mer vm soc þessa*,²⁵⁸ “I shall prosecute my case against him...in

²⁵⁴ *K*, 1:72.

²⁵⁵ *Grágás*, 1:79.

²⁵⁶ *Jónsbók*, p. 28.

²⁵⁷ See the discussion of *Bandamanna saga* in Chapter Four, where such an abuse of power by a group of colluding chieftans is the focus of the narrative.

²⁵⁸ *K*, 1:79.

the way I think most true and right and most in accordance with the law, and that I think he is guilty of the charge I bring against him...and I have not offered money for support in this case of mine to anyone in this court and I shall not offer it.”²⁵⁹ Not to be confused with the oaths that attest to guilt and innocence, this swearing is only concerned with the moral substance behind the charges. Corrupt practices, particularly the use of money to influence outcome, are substantial threats to the fair process of the judicial system, a vulnerability addressed through the assurance of these verbal declarations. The fact that the oath has a special clause about bribery indicates the powerful temptation of money to corrupt a verdict, delegitimizing the entire trial process by reducing it to a commodity that is bought and sold rather than won through facts and witnesses.²⁶⁰ The provision affirming with the future tense “I shall not offer” closes an important loophole that would otherwise allow the plaintiff to swear the oath and *then* offer the bribes after giving the court an honest declaration. *Grágás*, therefore, permits litigants to bring forward all charges out of a genuine feeling about the defendant’s responsibility for having acted illegally and not for other reasons such as revenge or defamation of an enemy. Thus, the verbal contracts espoused by the participants in the legal cases authenticate their motives, while simultaneously trying to prohibit any manipulation of the outcome by more dubious means, like bribery.

Judicial Oaths

The *Richtereid*, ‘judicial oath,’ is one of the most important categories of oath-taking available to the Anglo-Saxon and Icelandic communities. It represents the largest classification

²⁵⁹ *Grágás*, 1:85.

²⁶⁰ *Bandamanna saga* offers a frank discussion of this legal concern through its comical example of buying a verdict. In the saga, Ofeig lowers and raises his purse throughout his talk with the judges to help motivate them to accept the merits of his legal case (thus ostensibly buying their verdict for his son). See the discussion in Chapter Four.

of swearing because these statements are used in both the delivery of charges against an individual and in the presentation of testimony used to make the legal case. As a result, the *Richtereid* is the most frequent and influential oath appearing in the law. Its use for the Anglo-Saxons and Icelanders reflects the serious importance of community and personal honor within the Germanic legal tradition. Fredrick Pollock and Fredric Maitland see spoken support during legal procedures as “the primary mode of proof, an oath going not to the truth of specific fact, but to the justice of the claim or defense as a whole.”²⁶¹ The role of the oath-giver, therefore, in making or breaking the legal case connects every judicial case back to the community and the trust that this collective places in every individual speaker.

In bringing charges against someone, the oath is an invaluable means of presenting both the indictment against the accused and clearing the intention of the accuser. Court proceedings under Æthelstan *ofga ælc mon his tihtlan mid foreaðe*²⁶² ‘require each man to begin his charge with an oath taken first’ before any legal action is considered. Likewise, the early law code of Edward, written in the first half of the tenth century, states that those who wish to bring a lawsuit against another must *geȝpe ðonne mid aðe, ðæt he hit for nanum facne ne dyde*²⁶³ ‘declare then with an oath, that he did it for no fraud.’ In making this statement, the claimant ensures that the prosecution of these charges is done out of genuine desire for justice rather than for personal or vindictive means. The desires for personal vengeance that stems from feud, as well as the greed and envy that often lead to unjustified cases, are nominally prevented

²⁶¹ Frederick Pollock and Frederic Maitland, *The History of English Law Before the Time of Edward I*, vol.1, 2nd ed. (1907; repr, Cambridge: Cambridge University Press, 1968), p. 39.

²⁶² II Æthelstan 23,2. *Gesetze*, 1:162.

²⁶³ I Eadweard 1,5. *Gesteze*, 1:140.

through the purgative oaths designed to inhibit those bringing legal accusations under dubious motivations.

In addition to validating the cause of the petitioner, oaths taken by prosecutors also work on varying levels, in large measure to incriminate the defendant. Alfred's law code proclaims that: *Gif hwa oðerne godborges oncunne ond tion wille, þæt he hwelcne ne gelæste ðara ðe he him gesealde, agife þone foreað on feower circum* ²⁶⁴ 'If a man charges another about a solemn pledge given under the endorsement of God and wishes to accuse him, that he has not fulfilled any of the promises which he made to him, let him render the oath taken first in four churches.' Here the oath has gone beyond a simple statement of intent and has expanded to function as a way for one party of the legal case to state the guilt of the other. The *foreað* in this legal tradition declares the intention, but it also links these words to an explanation of how the defendant failed to uphold the pledges given earlier. Legally prescribed words now join with the narrative indictment of the accuser to create testimony. This move toward accusatory words is further heightened by several laws dealing with theft. Ine, the West Saxon ruler from 688 to 726, commands that the man who kills a suspected thief *mot gecyðan mid aðe þæt he synnigne ofsloge* ²⁶⁵ 'must prove with an oath that he killed him [while] guilty [of thievery].' The words of the oath-speaker in this instance bear even more narrative weight than previously granted by earlier law codes. The testimony of the killer must marginalize the victim, and, by transforming the dead man into a criminal the speaker is able to escape any repercussions for his own actions. The proof of his words carries a powerful influence in this case, heightened even further by the fact that the accused victim is unable to react to these charges. Further

²⁶⁴ Ælfred 33. *Gesetze*, 1:66.

²⁶⁵ Ine 17. *Gesetze*, 1:96. For more on the dates of Ine's regnal period see Barbara Yorke, *Kings and Kingdoms of Early Anglo-Saxon England* (New York: Routledge, 1990), p. 133.

linked to the accusatory power of this oath is the provision that *nalles ða gegildan*²⁶⁶ ‘the associates [of the slain man] are not allowed [to offer oaths in his defense].’ Any chance for a defense of the dead man now rests solely on the fallibility of the killer’s words. The social risk, however, in making this one speaker’s voice so authoritative is that it comes dangerously close to allowing the killer to get away with murder, simply by falsely accusing the victim of stealing. It is at this nexus between honest declaration and legal loophole that certain restrictions must be applied to the verbal power of the legal oath. In later iterations of the thievery code, Ine adds a provision that should the killer *dierneð* ‘conceal’ the crime rather than proclaim it openly, the protection of his oath is lost. This amendment attempts to clarify the ambiguity regarding justifiable homicide and limit the verbal exploitation of this liberty, as well as open avenues where the slain man’s associates may testify and potentially exonerate the accused thief.

The production of oaths in legal cases and the power contained within the presentation of this sworn language functioned not only on the side of those prosecuting these suits, but also with those who wished to use their words as a potent form of legal protection. Indeed, the use of the oath as a means for declaring innocence is even more widespread in its appearance among the Anglo-Saxon laws than the oath as declaration of guilt. For example, when discussing the proper manner to free a man from the allegation of cattle theft, Æthelstan’s law code states that he needs only *gecyðe mid aðe*²⁶⁷ ‘declare with an oath’ to verify that he is innocent. As with the paradigm of the killer of the thief above, it is the oath of only one individual that exonerates him or her. Many of these laws make no mention of the accused needing further corroboration regarding guilt or innocence.

²⁶⁶ Ine 17. *Gesetze*, 1:96.

²⁶⁷ VI Æthelstan 8,8. *Gesetze*, 1:180.

Not all legal cases are so easily ended, though. For those accused of committing robbery, the option of presenting an oath allows them to escape prosecution provided *að sceal bion healf be huslgengum*²⁶⁸ ‘the oath should be half the amount for a communicant.’²⁶⁹ The term *huslgengum* is somewhat troublesome to translate. Attenborough notes that reference to the *huslgengum* implies a special class of citizens whose word carries more social value among the Anglo-Saxons.²⁷⁰ Bosworth and Toller also suggest this understanding in *An Anglo-Saxon Dictionary*, which attempts to clarify where that increased value might come from in its definition of *huslgengum* as an individual who is allowed to receive the sacrament of communion.²⁷¹ The connotation of spiritual purity necessary to participate in this holy ritual is carried over to the activity of swearing, lending more value to the words of people in this class. Likewise, a man accused of participating in a raiding party needed *CXX hida*²⁷² ‘an oath of one hundred and twenty hides’ to clear himself. The expression of an oath as an economic quantity, measured by the fine associated with breaking one’s word, places greater emphasis on swearing in certain situations. Likewise, certain forms of swearing drew more credence when additional witnesses lent their words to the case. For example, Æthelstan’s law code regarding livestock claims asks the defendant to claim one witness from five *neahgeburas* ‘of his neighbors’ to

²⁶⁸ Ine 19. *Gesetze*, 1:96.

²⁶⁹ Wormald notes, in his entry on “oaths” in *The Blackwell Encyclopaedia of Anglo-Saxon England* that “an elaborate and far from wholly clear mechanism in the laws of Ine reckons oath-helping in numbers of hides.” Rosamond Faith notes that hides “conferred a superior status” on their owners, implying that oaths calculated in this way require verification by a certain number or a higher social class of neighbors. It is possible here that the *healf*, ‘half,’ references the same system in determining the level of credibility granted to the oath. *The Blackwell Encyclopaedia of Anglo-Saxon England* s.v. “oath” and “hide.”

²⁷⁰ Frederick L. Attenborough, ed and trans. *The Laws of the Earliest English Kings* (1922; reprint, Felinfach, Wales: Llanerch Publishers, 2000), p. 185.

²⁷¹ *An Anglo-Saxon Dictionary*, s.v. ‘húslgang.’

²⁷² Ine 14. *Gesetze*, 1:94.

confirm his word.²⁷³ The prosecution's selection of two men from among ten neighbors, however, could nullify this oath. By stratifying the process of swearing, some oaths become more influential, particularly when compared to a weaker counter-oath offered by the opposing party. The potential exists, therefore, for unjustly accused individuals to escape unwarranted punishment through the gathering of credible witnesses.

In some cases, however, the use of words alone is not persuasive enough to turn the tide of conviction and for these moments the trial by ordeal was necessary. The ordeal combines the physical proof of activity with the divinely sanctioned words of the oath, uniting both into a bodily trial, which is able to exonerate or convict the accused. It is appropriate that these physical demonstrations of innocence, such as the consumption of consecrated bread or the retrieval of a stone from boiling water, be merged with their nonphysical manifestations through oaths. Every participant in the trial by ordeal is required by Æthelstan to *swerige ðonne þone að þæt he sy mid folcrynhte unscyldig ðære tihltan, ær he to þam ordale ga*²⁷⁴ 'swear an oath under common law that he is innocent of the accusation, before he goes to the ordeal.' In presenting this oath before ordeal, the role of divine intervention to punish those who might abuse their ability to swear ensures that only an honest person would be vindicated in his trial. As Lisi Oliver suggests, inherent in this swearing is the idea that deceitful words would invoke divine punishment mandated by the curse for speaking falsely.²⁷⁵ It is this sanctified nature of the oath that obliges its inclusion in the ordeal's otherwise physical expression of justice. Thus

²⁷³ II Æthelstan 9. *Gesetze*, 1:154.

²⁷⁴ II Æthelstan 23. *Gesetze*, 1:162.

²⁷⁵ Oliver, *The Beginnings of English Law*, p. 144.

the ordeal exemplifies, when the defendant survives the physical test, the power of the oath to certify innocence and to liberate an accused person.

Just as the verbal declarations of innocence before ordeal serve to guarantee the defendant's freedom, should he survive the ordeal, the addition of other compurgators, or 'oath-helpers,' also moves the character of the defendant beyond the realm of legal attack. While it is easy to confuse the addition of further oath swearing with witnesses in the strictly modern sense, Wormald notes that the addition of oaths by other parties involves primarily vouching for a good character rather than "actual evidence of witnesses as to particular facts at stake."²⁷⁶ In Wihtræd's legal code, the provision for drawing on assistance using oaths reads: *Ceorlisc man hin feowra sum his headodgemacene on weofode; ond ðissa ealra að sie unlegnæ*²⁷⁷ 'A common man with three other men who are his social equals at the altar can clear himself [by oaths], and the oath of all of them is not able to be broken.' Compurgation allows for the community to take a direct hand in the use of legal oaths. However, in asking for additional help in testing legal words the Anglo-Saxon legal system inadvertently creates the possibility for further competition between opposing sides, as each group maneuvers to out-swear the other. For example, King Alfred's law regarding the failure of one party to fulfill solemn pledges allows that *se oðer, gif he hine treowan wille in xii circum do he ðæt*²⁷⁸ 'the other party [being accused], if he wishes to clear himself of a charge, let him perform [oath swearing] in twelve churches.' The implication within this passage is that whoever has the most oaths will

²⁷⁶ Patrick Wormald, "Oath," *A Companion to Anglo-Saxon Literature*, ed. Phillip Pulsiano and Elaine Treharne (Oxford: Blackwells, 2002), p. 338.

²⁷⁷ Wihtræd 21. *Gesetze*, 1:14.

²⁷⁸ Ælfred 33. *Gesetze*, 1:66.

offer a more honest version of events and therefore will win the case. Veracity appears to be replaced with quantity rather than quality, and thus the value of what is said becomes negated.

The *Grágás* laws on assembly procedures make very clear that giving one's word is a very serious action, one that requires the presence of not only the defendant for the swearing, but also the chieftains in charge of rendering the verdict.²⁷⁹ These oaths guarantee that proper procedure is followed for the summoning of witnesses and that the corroboration of their word is made in a legitimate way. Furthermore, all those men who vouch for another are bound by oaths similar to those issued by the plaintiff and defendant. *Grágás* distinguishes two separate classifications for these witnesses based on the timing of their oath-taking. The most important of these is the compurgator, a witness responsible for giving endorsement to those oaths taken prior to trial. Much like the oath of the plaintiff and defendant, these men give additional assurance that their party would pursue the case *sem hann hygr sanazt oc rettað oc hellzt at lögom*,²⁸⁰ "in the way he thinks most true and right and most in accordance with the law."²⁸¹ In binding the prosecution and defense to witnesses by oaths, the court has the power to levy serious penalties on those who abuse the legal system by manipulating truthfulness, as well as the family members and friends who would assist in perpetrating this fraud. While the swearing of compurgators provides no direct testimony to be used in the proceeding, it again adds an important moral weight behind the oaths already presented before the trial is initiated.

As well as using oaths as pre-trial authorization through compurgatorial oath takers, the Icelandic legal system also invests the words of a sworn witness with the level of credibility

²⁷⁹ *Grágás*, 1: 65.

²⁸⁰ *K*, 1:80.

²⁸¹ *Grágás*, 1:85.

necessary to ascertain the defendant's guilt or innocence during the presentation of the case itself. The words become the proof necessary to make the case. This responsibility, however, requires that the witness cannot change his testimony to affect the trial's outcome. *Grágás* requires these speakers to offer evidence for *þav öll er þeir hafa verit í nefndir*,²⁸² "everything they were named to witness," providing no opportunity to omit or alter any information.²⁸³ Oaths impose an order upon the words spoken, and when additional attestants swear with the same words this adds further credence to the veracity of the testimony. As *Jónsbók* states: *Sva er ef einn berr vitni með manni sem engi beri, en .ii. sem .x., ef maðr uggir eigi anditni í moti*, "And if one bears witness for a man it is as if no one bears [it], but two are as [good as] ten, if the man does not suspect contrary testimony in the matter."²⁸⁴ And while including more than one witness bolsters the proof, consistency must be maintained throughout to minimize problems with memory or perspective that potentially create differing testimony among various oath takers. *Grágás*, therefore, states that:

*Ef maðr hefir þa söc at sækja er vattorð fylgir. oc a hann at beiða rettingar at oc framburðar. váttar scolo vana eiða aðr oc bera vetti síðan. þa bera þeir rétt vætte ef þeir bera þav orð öll er þeir voro at nefndir... Lengr er þeir ero ásáttir scale in fram telia vætte. en aðrir giallda á samquæpi sit.*²⁸⁵

If a man has to prosecute a case in which testimony figures, he has to ask the witness to frame the wording of it and deliver it. Witnesses are first to swear oaths and then give their testimony. They give their testimony rightly if they utter all the words they were

²⁸² *K*, 1: 58.

²⁸³ *Grágás*, 1: 69.

²⁸⁴ *Jónsbók*, p. 9.

²⁸⁵ *K*, 1:57.

named to witness...As soon as they are agreed, one of them is to utter the testimony and the others give their assent.²⁸⁶

Such confidence is placed on testimony sworn with an oath that Icelandic law provides that even if the person delivering the words falls ill, or is injured, he can swear this testimony on to other witnesses who can repeat the statement before the court with as much authority as the original presenter.²⁸⁷ The fear of providing support for untrue words and the intrinsic belief that a curse threatens the soul of the false speaker ensures the honesty of these statements.²⁸⁸ Without the assistance of these words, cases are not able to move forward through the judicial system. Thus, the full legal potential of the oath is reached through the evidence submitted in the presentation of testimony given under the guarantee of oaths.

Adding testimony from other individuals who are not directly linked to the case as either plaintiff or defendant, particularly when a case requires more than a single compurgator, creates a potential crisis when both parties can employ witnesses to swear for their respective sides. Obviously, both groups in the case cannot enjoy the benefit of oath-helpers, particularly when trying to determine responsibility. To bypass this complication *Grágás* offers this provision:

Lengr er þeir ero asáttir scale in fram telia vætte. en aðrir giallda á samquæpi sit. Nv verþa þeir eigi allir a eitt sáttir oc scoló þeir hafa sítt mál er fleire ero saman. oc scal maðr vætte tellia fram or þeirra flocke. hinir school giallda samquæði sitt á er lið hava

²⁸⁶ *Grágás*, 1: 68.

²⁸⁷ *Grágás*, 1: 69.

²⁸⁸ The concept of divine punishment for lying is present in both Anglo-Saxon and Icelandic judicial processes and comes from their shared Germanic heritage. The fear of divine (either Christian or pagan) reprisal for those who swear falsely is an appropriate motivation for both cultures that place an equivalent value on the oath-taking process. Oliver, *The Beginnings of English Law*, p. 144.

mina af því at þeir hafa eigi afl til anars. Enn þeir scolo þat mæla þa er þat vætte er borit at þeir mundi ana vætte bera ef þeir hefði afl til. oc queða a huert vætte þeir mundi bera. oc verðr þeim eigi at liúg vætte þott hinir se sottir vm. Nv verða þeir iafn margir hvarir tuego er sitt vilia bera huarir. oc scolo þeir hafa sitt mal er lengra vætte bera.²⁸⁹

As soon as they are all agreed, one of them is to utter the testimony and the others give their assent. If they do not all agree on the same thing, then those in the majority are to prevail, and a man from that group is to utter the testimony. The minority are to give their assent, because they do not have the numbers to do otherwise, but when that testimony is given, they are to say that they would have given different testimony if they had the numbers, and state what testimony they would give, and this is then not false witness on their part even if the majority are prosecuted for that. If they turn out to be equal in number, the two groups who each want to give their own version, then those are to prevail who give longer testimony.²⁹⁰

Thus, the problem of which side will benefit from the testimony of witnesses is a matter of how many supporters that individual can raise to swear for his side. As William Ian Miller comments, “success or failure of a disputant’s claim hinged less on matters of proof than on his ability to recruit support for his case.”²⁹¹ Assistance from the family group, or those who are their allies, becomes all the more important when their statements are vital in the competition for oaths.

²⁸⁹ *K*, 1:57.

²⁹⁰ *Grágás*, 1:69.

²⁹¹ William Ian Miller, “Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland,” *The American Journal of Legal History* 28.2 (1984): 98.

The competition for oaths, as a result, draws more people into the process of swearing and heightens the danger to the community should those oaths be broken.

In investing such importance in the oath, Icelandic legal systems also increase the danger of allowing serious crimes through a person's manipulation of words. The very real threat of perjury endangers the oath system by conceding credibility to speech that should not be given any level of trust. Because the protection of swearing is necessary to keep the Icelandic judicial process running smoothly, the legal texts make very clear that abuse of the oath process is an offence that merits a serious response. The punishment for falsehood, according to *Grágás*, is lesser outlawry *þav oll er borin verða a varþingi eða a heraðs dómom heima i heraðe. Þegnscapar lagning eða quið burði eða vetti þat varðar fiorbavgs garð*²⁹² "for falsehood in any formal means of proof at a spring assembly or locally at district courts, in giving one's word of honor or a panel verdict or testimony."²⁹³ The law, therefore, does not tolerate any abuse of the legally prescribed uses of language, and it makes an effort to try to remove anyone convicted of the crime of lying under oath from the community. Regarding questionable oaths, *Grágás* also states:

*Huar þess er mðr hefir þan eið vnin er hann hefir fleira undir scilit oc verðe hann tortrygðr vm eiðin þa er hann scal þav fleire gögn af hende leysa er eiðar eigo at fylgia. þa scal hann þar lata bera vætte þat er hann nefnde at þa er hann van eiðin eða vina ella eið i anat sin.*²⁹⁴

Whenever a man has sworn an oath to cover several points and doubt is raised about

²⁹² *K*, 1:108.

²⁹³ *Grágás*, 1:108-9.

²⁹⁴ *K*, 1:66.

his oath when he comes to perform other legal acts in which oaths are to figure, then he is to have witnesses brought whom he named to witness it when he swore the oath or else he is to swear again.²⁹⁵

The implication behind this law is that once a person's words become suspect, he loses the ability to be trusted and everything he says becomes doubtful. The need to call the confirming witnesses to the oath also casts doubt onto the words of the compurgators, and the entire group becomes tainted through the suspicion that their language is dishonest. But reliance on the oath is required in some cases, particularly in cases involving homicide, where the Staðarhólsbók manuscript of *Grágás* adds that for those who *varna eiðana þa er þat fiör bavg sÖc um eið fallit*,²⁹⁶ "refuse the oaths, there is a lesser outlawry case for the oath-lapse."²⁹⁷ Concealing the truth through a refusal to swear makes a man guilty of trying to obscure the truth, and therefore in need of punishment.

Challenges to oaths are found not only in the swearing of suspicious oaths or in the act of revealing deception, but also in the form of oaths given "correctly" that attempt to get around the purpose of the oath. In Chapter 37 of the personal rights section of *Jarinsiða* the following provisions are included regarding oath taking:

Sva liz oss oc oðrum skynsomom monnom, at up þa iafnaðar æiða, sem menn hava haft i sættargerðom manna, at þat se mæirr með ofkappe gort, helldr en logom oc rættindom. Oc af þui at ver hovom ollom monnom log suaret i rikino, þa viliom ver at þesser æiðar

²⁹⁵ *Grágás*, 1:75.

²⁹⁶ *Grágás efter det Arnamagnæanske Haandskrift Nr. 334 fol., Staðarhólsbók og en Række andre Haandskrifter*. Vilhjálmur Finsen, ed. (1883; reprint, Odense: Odense University Press, 1974), p. 305. Hereafter cited as *St*.

²⁹⁷ *Grágás*, 1:211.

falle vannlega niðr, oc þa æina uppi lata sem logbækr vatta, en þat ero dul æiðar, oc um kenzlu mal þau, sem æige ero logleg vitne til.

Sva liz oss oc haskasamlegt fire guðe, at þar sem sa maðr suerr fire, sem male a at suara, þa skulo aller sueria epter hans æiðstaf, þo at þeir vite eige hvart er þeir sueria satt eða æige. Nu viliom ver þa skipan a gera, at sa sueri fullan æið fire sek, er fire male er, en aðrer sanne hans eið, með þui skilorðe, at eige vito þeir sannare fire guðe, en þeir sueria.²⁹⁸

Thus it seems to us and to other prudent men that about oaths of equity that men have observed in the making of agreements of men, that those are done more through stubbornness than in accordance with law and justice. And because we have confirmed by oath the laws in our kingdom for all men, then we wish that these oaths be dropped altogether, and those only come forward that the law confirms, and those are oaths of denial and oaths in cases of circumstantial evidence to which there are no lawful witnesses.

Likewise it seems to us dangerous before God that whenever a man swears an oath, who has to answer in a case, then all those swear according to his oath-formula, even though they do not know whether they are saying the truth or not. Now we wish to make this change, that he shall swear a lawful oath on his own behalf who is to answer the charge; and the others affirm his oath, with this condition, that they did not know [it to be] truer before God, when they swear.²⁹⁹

²⁹⁸ *Járnsíða eðr Hákonarbók*, ed., Þórður Sveinbjörnsson (Havniæ: Sumptibus Legati Arnæmagnæani, 1847), p. 57.

²⁹⁹ Credit is owed to Jana K. Schulman for this translation.

The complaint of the Norwegian king, Magnus Hákonarson, regarding the oath process is that not only are the witnesses lying, but also aspiring to misrepresent these dishonest words as truthful ones. In correcting the way in which the people are making their oaths, *Járnsíða* reveals how easily the language lends itself to manipulation and how vigilant the law is required to be in order to prevent this exploitation. While the power of the oath is undeniably strong, it is also a power that the Icelandic world recognizes as precariously close to being a threat to the very system that requires it to function.

As powerful as oaths seem to be within the Icelandic world, the Anglo-Saxon laws also recognize the same dangerous potential for their abuse; as a result, English kings frequently attempt to regulate oath-taking through strict punishment for those seeking to abuse the system. Just as a murderer can exploit the oath given by the killer of a thief to excuse the commission of homicide and the combined falsehood of four men becomes irrefutable ‘truth,’ the awesome and dangerous potential of language requires restriction in its legal sense in order to ensure honest usage. Of particular concern are perjury and slander, the deliberate misuse of words for personal gain or to escape punishment. Æthelstan’s code recounts the mandate for punishment *forþon ðe ða aþas ond þa wedd ond þa borgas synt ealle oferhafene ond abrocene*³⁰⁰ ‘because the oaths and the pledges and securities are all ignored and broken.’ The first step toward preventing the abuse of legal oaths is removing the ability to swear from those Anglo-Saxons found guilty of committing these crimes. Æthelstan declares: *Onð se ðe manað sweroqe, ond hit him on open wurpe ðæt he næfre eft aðwyrpe ne sy*³⁰¹ ‘And the man who should swear a false oath and it becomes evident about him, then he shall never afterwards be

³⁰⁰ II Æthelstan Prol., 3. *Gesetze*, 1:166.

³⁰¹ II Æthelstan 26. *Gesetze*, 1:164.

worthy of giving oaths.’ To lose such a personal right to participate in the legal rituals of a culture so strongly tied to language is a profound punishment not only to the individual, but also to the family and community dependent on these words for support in future matters. Likewise, *nalles þa gegildan*,³⁰² ‘the associates [of the slain man] are not allowed [to offer oaths in his defense],’ preventing people even suspected of collusion with a person acting in a dishonest way from taking action against the killer of the thief. Because the thief is considered inherently insincere, merely associating with him is reason enough to distrust the words of his friends and family. In devaluing the word of the community, Ine’s law makes prevention of crime the responsibility of not only the individual, but also the entire kin group or neighbors who stand to lose verbal protection through one person’s misconduct.

Punishing the social group of the accused liar was not the only answer available to the law as a means to curtail false swearing. Anglo-Saxon kings also had available at their disposal a variety of effective punishments designed to give stronger assurance to the safeguarding of truth through more lasting reprisals. One such law by Edgar states that a slanderer should have *his tungan scyldig*³⁰³ ‘his tongue cut out.’ Cutting out the tongue is a symbolic gesture, removing the offending body part from the lawbreaker to get rid of the impurities. Likewise, without the tongue, no possibility exists for repeating slander, and the extreme reaction to this crime is designed to ensure an individual maintain careful scrutiny over his words at all times. Under similar circumstances, Cnut’s code announces that any man convicted of swearing false oaths on *haligdome* ‘holy relics,’ he will *ðolie ðara handa*, ‘forfeit those hands.’³⁰⁴ Amputating the hands,

³⁰² Ine 16. *Gesetze*, 1:96.

³⁰³ III Eadgar 4. *Gesetze*, 1:202.

³⁰⁴ A. J. Robertson, *The Laws of the Kings of England* (Cambridge: Cambridge University Press, 1925), 194.

much like cutting out the tongue, ensures that the perjurer will never again take oaths because he lacks the ability to hold the relics for swearing. Thus, the law guarantees harsh physical reprisals on all of those criminals who are caught in the act of manipulating oaths for their own advantage in order to discourage this behavior and preserve the sanctity of speech required for the Anglo-Saxon legal system.

DOCUMENTARY EVIDENCE FOR THE LEGAL APPLICATION OF SWORN LANGUAGE

Though Anglo-Saxon and Icelandic laws provide useful indications of the power and the potential abuses of swearing, it is worth noting that the legal texts themselves offer only a limited perspective of the practical daily operation of sworn language. The prescriptive nature of legislation is designed to discourage objectionable behaviors through punishment, while simultaneously encouraging socially positive conduct through legalized justification. Yet, such legal regulations do not always directly correspond with how swearing is actually performed outside of a hypothetical context.³⁰⁵ Only by finding the scarce evidence of genuine legal swearing, when it is applied to practical situations, can the authentic application of such theoretical paradigms be translated into an understanding of actual, concrete action.

The body of extant documentary evidence in the early medieval world, however, is limited by the scarcity of written records describing such transactions involving oaths and pledges in any sufficient detail. Although an abundance of accounts exists to describe court proceedings throughout England in the twelfth and thirteenth centuries, only a meager number of cases survive for the early Anglo-Saxons and much of that information is recorded

³⁰⁵ The law offers only guidelines for behavior, and adherence to its regulations depends on the desire of the individual to follow its directives. Mark C. Suchman, "On Beyond Interest: Rational, Normative and Cognitive Perspectives in the Social Scientific Study of Law," *Wisconsin Law Review* 475 (1997): 475-501.

indirectly.³⁰⁶ Michael Clanchy, in *From Memory to Written Record*, places the number of extant writs and charters from Anglo-Saxon England at approximately two thousand, a quantity comparable to “a single session of the royal justices in eyre in an average-sized county” during the thirteenth century.³⁰⁷ Icelandic documentary sources, likewise, offer sparse accounts describing the political and legal realities for the island’s early period. Byock explains, “Icelandic annals, diplomatic texts, and church writings offer only limited information about the early society.”³⁰⁸ Hallvard Mageroy also characterizes legal writing for medieval Scandinavia as, “a literary superconstruction upon a judicial practice that was principally still non-literate, one that preserved old oral formulas and inherited juridical symbols.”³⁰⁹ The combination of prior oral traditions and the slow movement of Christianized, Latin-based writing into the extreme north results in scant written testimony to the practical implementation of swearing. Additional complications for Anglo-Saxon scholarship come from what Wormald describes as, “no acknowledged corpus of Anglo-Saxon lawsuits,” although he does present a catalog of ninety-five records associated with primary court cases from this period.³¹⁰ Iceland’s deficiency in

³⁰⁶ In England, the introduction of official legal documentation, especially the pipe rolls produced at the assize courts and the *curia regis*, provides a more extensive collection of legal records after the twelfth century. Ultimately, this larger body of documents provides a more comprehensive view of how sworn statements are made. For example, during the trial against William of Douglas on charges of treason, the account of the trial includes the exact language used to produce acquittal. “And the jurors said upon their oath that the said William never was against the king or against his son, nor had he done aught whereby he should lose his land.” This documentation indicates not only why the oath is offered, but also what qualifying statements are given with the oath to clear William of the charges. J. Crawford Hodgson, trans., *Pleas from the Curia Regis and Assize Rolls: 1198-1272*, ed. A. Hamilton Thompson (Newcastle upon Tyne: Northumberland Press, 1922), p. 271.

³⁰⁷ Justices in eyre are circuit court judges responsible primarily for the enforcement of minor civil cases. Michael T. Clanchy. *From Memory to Written Record: England, 1066-1307* (Cambridge, MA: Harvard University Press, 1979), p. 14.

³⁰⁸ Byock. *Medieval Iceland: Society, Sagas, and Power*, p. 18.

³⁰⁹ *Medieval Scandinavia: An Encyclopedia*, s.v. “diplomats.”

³¹⁰ Patrick Wormald, *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (New York: Bloomsbury Academic Publishers, 1998), p. 254.

recorded evidence, also perceptible, is attributable to either the harshness of its climate or an early dependence on orality. Such an environment also makes it difficult to uncover actual sworn language in any early context. As Miller notes, “The greater part of the surviving written record from which we can hope to reconstruct a social history is either narrative or normative, that is, either sagas or law.”³¹¹ In the absence of definitive documentation of how oath-taking or pledging is actually contracted among the early Icelanders, we must extrapolate its particulars from those sources that are available. Such restrictions to our understanding enhance the appreciation for the limited proof, even tangentially attached to swearing, gleaned from the documentary sources. Although the evidence for genuine acts of legal swearing is not as ubiquitous as the act itself must be, it is possible to interpret those extant sources to provide some small insight into how the principles of the law are actually applied in real legal situations when plaintiffs and defendants put the legal rituals into practice.

In the absence of extensive records for Anglo-Saxon and early Icelandic court proceedings, it is necessary to shift the documentary investigation toward the collections of cartulary, testamentary, and epistolary writings available from this period. Though such documents are written for alternative purposes, such as granting lands or conferring about matters of religious concern, they are still legitimate legal texts and often include useful passages tangentially related to expressions of honesty. Such glimpses into these various legal situations offer adminicular (secondary) evidence about the universality of swearing and the various challenges presented by this activity. Among such diplomatic texts are wills, the written bequests of prominent citizens, which offer compelling indications about the range and

³¹¹William Ian Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago: University of Chicago Press, 1997), p. 43.

authority of swearing among these medieval communities. Extant wills, especially those found in the shires of Anglo-Saxon England, present statements that focus attention on maintaining legitimacy and accuracy of the words used in each bequest.³¹² At the heart of such testamentary writing is the assumption that the words of an individual, when he is no longer capable of defending them, will be respected. As such, it is not surprising that these documents frequently include statements closely associated with binding the words of the text to the speaker's desire to have constancy in execution of his last will and testament. One such declaration appears in the closing warning from the will of Thurstan of Norfolk, a wealthy eleventh-century landowner, seeking to make the document unalterable by binding the words to a promise of retribution for dishonesty. The text states: *Se þe þis quide awenden will, buten ic self it be, god him fordo nu and on domisday*, 'He who wishes to alter this will, unless it be I myself, may God destroy him now and on the Day of Judgment.'³¹³ While this curse offers no direct support for swearing, the punishment it invokes is aligned with those cautions against perjury by evoking the power of supernatural punishment. Likewise, this statement is rooted in the assumption that all respectable individuals, especially those fearful of the spiritual punishment cited, will abide by the contents of the document. Thurstan's will is not alone in attempting to prevent fraudulent alteration of the language of his bequest, an indication of widespread concern about the potential accuracy of expressions, especially written ones, to be vulnerable to those individuals malicious enough to illegally modify or even counterfeit them.

³¹² While many Icelandic cartulary documents are extant, written wills, particularly for the early settlement period, are conspicuously absent from collections of documentary sources. This is, presumably, due to the extensive legal system of inheritance already included in *Grágás* (and subsequent law books) outlining the distribution of inheritance to family, creditors, and others in the event of an individual's death. See *An Icelandic-English Dictionary*, s.v. "testament."

³¹³ Dorothy Whitelock, trans. *Anglo-Saxon Wills* (1930; reprint, New York: Cambridge University Press, 2011), p. 83.

In addition to curses designed to keep documents unchanged and genuine, wills also conclude with the names of those witnesses attesting to the integrity of the text. Such lists of signatures corroborate the wider role played by the community as the guardians of truthful expression. Although testamentary documents record no actual oath-taking language among the accounts of signatories, it is a safe assumption that the process of signing is linked to a declaration substantiating the legitimacy of the text.³¹⁴ Only by joining the rank and reputation of witnesses to the document itself could doubts about accuracy be effectively silenced.

Thurstan, in granting his estate at Wimbisc to Christchurch, evokes many notable individuals at the conclusion of his bequest. Among the attestors mentioned in this document are King Edward, the Lady Ælfgifu, Archbishop Eadsige, two earls, bishops from the major cities of *Lundene* (London) and *Winceastre* (Winchester), and many other members of the nobility.³¹⁵ Few would dare dispute the witness of the king, especially when associated with the other religious and secular authorities present. Thurstan additionally calls on *ealle þa þegenas on Eastsexan*, 'all the thegns of Essex' to provide him with the final measure of support. This method of inclusive corroboration is again used by Thurstan in a second testamentary document, where he involves an even larger group of witnesses from various locations *innon Norfolke* 'in Norfolk,' *innon Suffolke* 'in Suffolk,' *in Grauntebreggeschire* 'in Cambridgeshire,' and *innen Essex* 'in Essex'.³¹⁶ This catalogue ensures the involvement of a wide body of individuals

³¹⁴ Written transcripts of the oaths taken by witnesses do occur in some early medieval testamentary traditions, like those from Catalonia. The absence of this component in Anglo-Saxon documents frustrates the effort to understand the legal traditions associated with the process of property distribution among the early English. For more on this debate, see Nathaniel Taylor, "The Will and Society in Medieval Catalonia and Languedoc, 800-1200" (Ph.D. diss., Harvard University, 1995), p. 36. See also Michael Sheehan, *The Will in Medieval England: from the Conversion of the Anglo-Saxons to the End of the Thirteenth Century* (Toronto: Pontifical Institute of Mediaeval Studies, 1963).

³¹⁵ Dorothy Whitelock, trans. *Anglo-Saxon Wills*, p. 78.

³¹⁶ *Ibid.*, p. 83.

to authenticate this will, allowing for even stronger testimony from additional members of the community. Even if one group of witnesses is sufficient to declare Thurstan's original document valid, the careful inclusion of further supporters minimizes potential objections and maximizes the safeguards against potential alteration, especially the crime of forgery. Although the ancillary evidence offered by these wills does not provide us with the wording of an actual oath taken by the signers, they do indicate a strong community awareness of the protection of honest communication through reputation and authority, the foundational principles upon which oath-taking is constructed within the legal texts.

In addition to the sparse attestations occasionally referencing swearing, documentary sources offer further insights into issues of enforcement, which illuminate the complex nature of this essential legal activity. Turning from extant wills to the evidence drawn from cartulary³¹⁷ and epistolary sources, such texts further confirm the role of community participation in the creation of legitimate expressions of sworn language. These charters and letters reveal a need for additional, external sources of social enforcement to regulate these practices. For both Iceland and Anglo-Saxon England, the secular and the ecclesiastical authorities are the only forces capable of acting as the guiding forces in regulating matters of honesty. Moreover, the accounts make abundantly clear that, in matters of enforcement, the agency of royal rule outperforms attempts to regulate based solely on community participation.³¹⁸ Such sources,

³¹⁷ Compared to Anglo-Saxon documents, extant cartulary sources are not nearly as abundant or illustrative for early Iceland. Such scarcity occurs because Icelandic families typically retain personal control over early church bequests, minimizing the necessity for explicitly written documents attesting to the material disposition of the foundation. See Philadelphia Ricketts, *High-Ranking Widows in Medieval Iceland and Yorkshire* (Boston: Brill, 2010), p. 18.

³¹⁸ As mentioned above, the *Sturlungaöld* provides examples of extreme competition between influential families warping the expectations of justice for common Icelanders. The introduction of Norwegian royal officials, while not without its own complications for national identity, represents an effort to mitigate this breakdown by placing the responsibility for evenhanded legality in the hands of an accountable bureaucrat.

especially when they obliquely mention oath-taking, confirm the active involvement of the church and civil government with the administration of swearing in these communities. Despite the continued ambiguity of the exact language of swearing, these diplomatic records clearly emphasize how critical a role the influence of church and royalty plays in the process of swearing.

CONCLUSIONS

The legal processes of swearing were both delicately complicated and extremely serious activities within the Anglo-Saxon and Icelandic communities. The value of words to offer protection, lay charges, and to defend others from accusations are most apparent when they find purchase within the judicial regulations of these early medieval peoples. A significant body of Icelandic and Anglo-Saxon legal statutes describe in great detail how swearing, in its various forms, ensures the proper function of justice by granting legal credence to the words of a speaker. The preponderance of such laws makes it very tempting to understand all forms of swearing as identical pieces of legislation, especially when considering how each is founded on the principle that what is said must be a legally accurate account. Our careful study of the English and Icelandic legal rituals, however, reveals that the legal function of each instance of sworn language is divided into a delineated hierarchy of expressions, each more complicated and authoritative than the last. From the rudimentary expressions designed to qualify statements as 'truth,' we can see the effort to keep language honest by excluding underhanded intentions or efforts to deceive. Yet within these simple provisions it is also made clear that not many laws are designed to use only an expression of 'truth,' unregulated and unverified, as the only source of substantiation. Indeed, this hesitation is part of a wider mistrust of the social dependence on language that underscores both Icelandic and Anglo-Saxon legislation. Given the genuine risks that language can be manipulated and that truth is subject to interpretation

more than just occasionally, the communities of Iceland and England both codified more rigorous methods of making language trustworthy through more formalized methods of exchange. The pledge, as a more regulated exchange, seeks to close the gap between words and deeds by requiring money or property to serve as the collateral for trust. By making the cost of dishonesty substantive, the pledge further affirms the need to address issues of inconsistency in legally authorized speech. The culmination of such efforts to safeguard language is found in the oath, an exchange combining the ideological principles of 'truth' with the ritualized consequences of the pledge. Oath-taking, therefore, serves to ensure untainted indictments, certify testimonial statements of innocence, provide binding commitment to an individual, or guarantee the highest level of credence for any claim made by plaintiffs or defendants. Yet, even as the oath is used as the dominant form of legal corroboration, this study of the law also reveals the existence of a very healthy skepticism in the Icelandic and Anglo-Saxon legal texts for an unconditional embrace of this means of verbal exchange. As a result of potential manipulation of even the most revered type of sworn language, the oath, many laws in England and Iceland are designed to standardize and restrict access to oath-taking as a means to reduce potential dishonest behavior associated with the manipulation of language. The legal texts of Iceland and England reveal not only that some types of sworn language are given more credence, as confirmed by their increased abstraction and more severe penalties, but also that all forms of swearing are regarded apprehensively for their potential to be abused. In the end, Old English and Old Norse-Icelandic legal texts offer a curious mixture of appreciation of and concern for the power of sworn language, a sentiment also discussed within the literary writings of these times.

CHAPTER 4

SWEARING AS A LITERARY MOTIF

The Scope of Verbal Guarantees within Literary Texts

*lc on earde bad / mælgescrafta, heold min tela, / ne sohte searoniðas, ne me swor fela / aða on unriht.*³¹⁹

I awaited destiny in the land, properly held myself, did not seek treacherous quarrels, nor did I wrongfully swear many oaths.

These words, uttered by the Anglo-Saxon hero Beowulf as he finally succumbs to mortal wounds sustained during his battle against the dragon, effectively epitomize the attitude found in early Germanic literature regarding oath-taking as one of the most critical means for judging the worth of an individual.³²⁰ If the pervasiveness of swearing in the legal texts of the Anglo-Saxons and the Icelanders demonstrates its social importance, then this valuation is further reinforced by the frequency with which literary writings from the same period make mention of this subject as a matter of serious consequence. Neil MacCormick and Ota Weinberger argue in their book *An Institutional Theory of Law*, that legislation is only an “ideal entity in the realm of practical data,” whose meaning is derived theoretically from the social norms it expresses.³²¹ Laws may only present an idealized depiction of how to execute this critical activity, and such pronouncements typically offer only narrow perspectives through which to gauge the efficacy of the operation of swearing. As a result, the conceptual framework expressed in legal narratives

³¹⁹ *Beo.*, ll. 2736b – 2739a.

³²⁰ If honesty, evaluated for reliability through swearing, is one means of appraising a character in the Germanic world, some others include bravery in battle, generosity toward friends, and companionship among the warrior band.

³²¹ Neil MacCormick and Ota Weinberger. *An Institutional Theory of Law: New Approaches to Legal Positivism* (1986; reprint, Hingham, MA: Kluwer Academic Publishers, 1992), p. 18

provides only a limited venue to explore the specifics of swearing. Furthermore, the law – by necessity – must omit the general exceptions, minor details, and extenuating circumstances that might otherwise obscure or provide loopholes in its prototypical representation of oath-taking because the interpretation of legal texts is, by necessity, a work of practicality.³²² That practicality, however, does not excessively limit their interpretations. How that text is read is “one way of appropriating the symbolic power which is potentially contained within the text.” For medieval legal traditions though, it is impossible for modern readers to see that symbolism in practice in the “interpretive struggles” of those who “control the text.”³²³ Literary examples, on the other hand, allow greater freedom for a modern audience to observe variations in the patterns of swearing that the laws alone might only suggest, especially where deviation from the rules occurs, and to see the symbolic made concrete. Narrative provides a context to enhance the unembellished instances of swearing found within the law. Because storytellers are less concerned with establishing universal guidelines for acceptable practices of oath-taking (something attempted by all legislation), their literary examples of swearing can focus less on the mechanics and more on the background circumstances or complications that lawmakers deliberately attempt to avoid. Pamela Barmash asserts that literature often enhances such moments when legal themes are explored, thereby providing readers with deeper awareness of the intricate features of how authors or redactors shape the function of action within the framework of an existing legal system.³²⁴ Thus, if law offers a skeletal outline of how swearing should operate under idealized conditions, literary examples fill those gaps in our

³²² For more on Bourdieu’s ideas concerning the practical versus the symbolic nature of legal language see Pierre Bourdieu, “The Force of Law.”

³²³ Bourdieu, “The Force of Law,” p. 818.

³²⁴ Pamela Barmash, “The Narrative Quandary: Cases of Law in Literature,” *Vetus Testamentum* 54 (Jan. 2004): 1-16.

understanding, illuminating the intricacies of sworn language by connecting the intention behind the law with the realities of life.

While literary depictions of swearing often function within their respective narratives in ways closely resembling those exchanges represented within the body of legislative texts, not all examples of oath-taking correspond exactly to their legal counterparts. Just as the law omits the procedures for some specific types of swearing, like the oath of blood-brotherhood, many literary narratives also fail to employ some oaths or procedures essential to the law. Descriptions of coronation oaths, for example, are conspicuously absent from the literature of early medieval England and Iceland. This lack stems, on one hand, from the irrelevance of some of these oaths as a significant literary motif, especially for the inhabitants of Iceland in regard to oaths taken by kings. On the other hand, literary texts frequently minimize the explicit differences between the oath types so carefully separated by law, or they omit their details entirely from the narrative for the sake of expedience.³²⁵ As a result, my classification of these literary examples of sworn language for this study must focus on connections to common motifs about truth, rather than their representation in a specific type of legal category.

The concept of verity upon which swearing is built serves as a major thematic feature throughout much of Anglo-Saxon and Icelandic literature. Stith Thompson's comprehensive study of recurring literary elements, *The Motif-Index of Folk-Literature*, recognizes three important categories – society, testing, and deception – for understanding how honesty relates to the design of popular narrative. Thompson's classifications of motifs are organized as a progression “from the mythological and supernatural toward the realistic and sometimes

³²⁵ For example, no oath-taking ceremonies or coronation procedures are mentioned when Hygd offers Beowulf kingship over the Geats, nor are they included in the comments after the death of Heardred when he does assume this rule.

humorous.”³²⁶ The groupings involving honesty are catalogued by Thompson in those sections of the index where greater emphasis is placed on the interactions between the individual and society. Likewise, Inger Boberg’s earlier work, *The Motif-Index of Early Icelandic Literature*, a foundational text for Thompson’s own survey, categorizes exempla from medieval Norse literature into identically positioned groups within her own organization of the survey. Thus, the intersection of personal integrity and public language is recognized by both Thompson and Boberg as a recurring literary subject worthy of notice within Iceland and England.

The first such classification falls under the heading of “Society,” and it primarily focuses on social institutions where authority is derived from and exercised over others. Governmental and domestic relationships, starting with royal authority and proceeding to the hierarchy of the family unit,³²⁷ provide the context for evaluating an individual’s credibility and highlighting the speaker’s dependency on the integrity in others. In this category, oaths are connected not only with narrative representations of witness testimony or familial support, but also those depictions of the actions of kings and political leaders, whose positions of social authority necessitate involvement with the discernment of veracity. In this regard, literary examples enrich our understanding of swearing as a social function by adding more detailed insight into the relationships affected by exchanges found within the law. Likewise, Boberg and Thompson also identify truth as a central component of “Tests,” the second thematic category connecting honesty and its expression through swearing to the other social hallmarks of integrity, like

³²⁶ Stith Thompson, “Introduction,” *Motif-Index of Folk-Literature* (Bloomington, IN: Indiana University Press, 1955), 1:20.

³²⁷ Naturally, Icelandic literature presents the motif of royalty primarily through the interaction of saga characters with foreign nobility and royalty, since the Icelandic commonwealth lacked such an aristocratic class. These encounters with royal courts abroad, however, are no less informative of the way swearing and honesty function.

prowess, intelligence, and reputation. This category includes those literary illustrations of how swearing provides the means of appraising the integrity and credibility of an individual. Like the relationships emphasized in the motif of society, the assessment of innocence or guilt as a function of testing can frequently extend the mere scope of the legal realm. The instances where this motif appears within the literary canon serve to enhance our understanding of legal regulations. The ultimate motif involving truth in the work of both Thompson and Boberg, however, falls within the grouping identified as “Deception,” which represents the most significant and complex challenges to the validity of swearing. Regarding this section, Thompson says: “A very large part of narrative literature deals with deceptions. The work of thieves and rascals, deceptive captures and escapes, seductions, adultery, disguises, and illusions constitute one of the most extensive chapters in the classification.”³²⁸ While some examples may call attention to the specifically problematic processes complicating an oath, others may illuminate the complex ethical consequences of such acts, for instance when speakers deliberately attempt to violate or manipulate the order of sworn language. Categorizing these literary examples based on their general functions in the narrative allows us to consider how individuals within society, from a governmental to a personal level, view trustworthiness (and the expression of this quality in swearing) as something constantly in need of protection against the very types of exploitation so widely discussed within the literature.³²⁹ Therefore, I have structured this chapter around the motifs of society, testing, and deception because each provides a useful

³²⁸ Thompson, *Motif-Index of Folk-Literature*, p. 21.

³²⁹ Exploring oath-taking as a literary motif generates some potential overlap between these three categories, depending on the perspective through which such instances are considered. For example, when an oath is used to test a hero’s innocence, it may also include a social component if the community vouches for that individual’s reputation when the oath is offered. As a result, the intersections within this system of classification can offer common ground for the consideration of oath-taking on many levels.

framework to consider how the many literary illustrations depicting the nuanced backgrounds, moral repercussions, and exceptions for swearing can enhance our appreciation of the laws governing such exchanges.

If the oath attempts to integrate the socially constructed virtues of honor and reputation with the individually crafted expression of language, then it is not surprising that literary examples of these instances abound in the literatures of England and Iceland. Accordingly, *Beowulf*'s final speech precisely illustrates the general ethos surrounding oath-taking, and its message is even more significant when understood in the context of the catalog of the deeds offered as the legacy for a dying ruler. The entire poem is, at its core, a narrative guide describing what a ruler must do to be considered a *god cyning*, 'good king,' a phrase used successively to describe Scyld, Hrothgar, and finally Beowulf. Levin L. Schücking ascribes three distinct features to Beowulf's tenure as ruler, noting that keeping promises is only one aspect of what makes this hero an honorable Germanic king.³³⁰ The other two characteristics of Beowulf's kingship, mentioned prior to the claim about his integrity, are the long duration of his reign and the hesitance of neighboring rulers to dare an attack on his kingdom. While the oaths Beowulf makes may not be the first feature identified by both Schücking and the poet, personal honesty remains the defining characteristic that makes the other features of his successful reign possible. As a result, *Beowulf* offers irrefutable proof linking the value of honesty with those other characteristics, like bravery and honor, central to the warrior ethos of Anglo-Saxon and Icelandic society. The usefulness of how this dying speech assesses truth, moreover, derives from the fact that the hero lists this virtue among his personal accomplishments, thereby providing a genuine sense of its value to the contemporary medieval audience. If an imposed,

³³⁰ Levin L. Schücking, "The Ideal of Kingship in *Beowulf*," *An Anthology of Beowulf Criticism*. Ed. Lewis E. Nicholson (1964; reprint, Notre Dame: University of Notre Dame Press, 1980), p. 36.

enduring peace serves as the critical marker of a prudent and respected ruler, this harmony depends on Beowulf's successful avoidance of the *searoniðas*, 'treacherous quarrels,' which threaten to pull his community into larger and more violent conflicts. It is worth noting that the *Beowulf*-poet uses the noun *searoniðas* elsewhere to describe two of Beowulf's more perilous ventures, the attack of the *nicoras*, 'sea-monsters,' during the swimming contest against Brecca, and the confrontation between Beowulf and the dragon inside the underground barrow.³³¹ Each of these fights entails facing an opponent whose natural, animalistic fury and use of cunning methods – underwater assaults for the *nicoras* and poisonous breath for the dragon – require an extra effort from the hero to overcome them. For Beowulf to characterize the potential warfare of the Geats against their enemies in this way suggests he understands the probability for unchecked, petty conflicts to develop into a greater threat of devastating or uncontrollable hostility. Although honesty, particularly on the part of the king, may initially appear to be a personal characteristic discrete from the prevention of a savage or unchecked blood-feud, Beowulf immediately draws the two conditions, the security of his people and the power of his honesty, into their natural relationship by following the description of his kingdom's restraint in warfare with a pronouncement about his moderation in oath-taking. By explicitly linking peace directly to his truthfulness, Beowulf makes a powerful statement about how an individual's moral integrity provides the community with a foundation upon which it can prosper.

In addition to enumerating the individual's responsibility to speak genuinely as a means

³³¹ In line 581 of the poem, Beowulf tells Unferð: *No ic wiht fram þe / swylcra searoniða secgan hyrde, / billa brogan*, 'I have not heard tell of any such crafty-strife about you, of the terror of swords;' and in line 3066, Wiglaf offers these words to describe Beowulf's final battle: *Swa wæs Biowulfe, þa he biorges weard / sohte searoniðas; seolfa ne cuðe, / þurh hwæt his worulde gedal weorðan sceolde*, 'So it was for Beowulf, when he sought a treacherous-quarrel with the guardian of the barrow; he did not know for himself, through what way his parting from the world would come.'

to safeguard the community, Beowulf's dying speech also raises many questions symptomatic of the way other literary texts depict the act of swearing. Liberated from the constraints of establishing oath-taking as a uniform or binding practice, specifically as these oath-taking events function within a judicial context, the *Beowulf*-poet is empowered to shift perspectives or selectively focus the attention of the audience onto details about swearing otherwise overlooked within the law. Considering Beowulf's final speech, it is clear to see that the poet employs a certain level of ambiguity in the way the hero characterizes his honesty, thereby allowing the audience to find personal application for these words. For example, the exact nature of the *aðas* to which Beowulf refers remains tantalizingly unclear, and the audience is free to ponder if they are related to his position as the king of the Geats or if they are connected to his previous deeds as a heroic warrior. Because we know neither the language of these oaths nor the people associated with their offering, only speculation about such details is possible. Nevertheless, the use of the adjective *fela*, meaning 'many' or 'much,' to modify these exchanges would suggest a high frequency of their use, marking them as significant if only for the reason that Beowulf must have had more than one opportunity to swear in this way. For oaths pertaining especially to royalty, two possible types seem to match Beowulf's previous description of his deeds: either those oaths associated with forming the bond between a king and his retainers or those oaths connected to the establishment of diplomatic ties. The ruler of any Germanic tribe would have good cause to strengthen bonds of loyalty among his own retainers through verbal guarantees, and he would likewise look to extend the sphere of his influence with verbal negotiations as the alternative approach to the use of destructive physical violence against his opponent.

Prior to his fight with the dragon, Beowulf emphasizes the importance of the responsibilities between ruler and retainer as he recounts his past exploits to his band of

companions. He says in reference to his former lord: *lc him þa maðmas, þe he me sealde, / geald æt guðe, swa me gifeðe wæs, / leohtan sweorde*, 'I repaid him the treasures, which he gave me, in battle just as it was granted, with the gleaming sword'.³³² This claim of reciprocation for previous favor is built on the expectation that a warrior will meet his obligation by behaving in battle as he formerly agrees to act for the ruler. Here, however, is where Beowulf's words resonate most with the reader, who has recently witnessed his band of retainers neglecting to meet their social or military obligation to defend their lord. Prior to the fight Beowulf instructs his band: *Gebide ge on beorge byrnum werede, / secgas on searwum ... Nis þæt eower sið, / ne gemet mannes, nefne min anes, / þæt he wið aglæcean efoðo dæle, / eorlscype efne*, 'Wait on the barrow protected in mail coats, men in war-gear...That is not your venture, nor proper of a man, except me alone, that he should fight with the monster, perform this heroic deed'.³³³ Despite their instructions to be merely spectators of the fight, these warriors chosen by Beowulf to watch the deed share some culpability in not holding true to even this one basic instruction. The poet recounts that, during the worst of the fight, they *on holt bugon*, 'fled into the woods' in a cowardly refusal to stand together watching the battle from relative safety.³³⁴

Not only does the behavior of the retainers reflect poorly on their courage, but it is also equivalent to a betrayal of the trust Beowulf places in them to provide witness to his bravery.³³⁵ The statement about repaying Hrothgar for his gifts of treasure with brave deeds in battle, made

³³² *Beo.*, ll. 2490 – 92a.

³³³ *Beo.*, ll. 2529 – 30a and 2532b – 2535a.

³³⁴ *Beo.*, l. 2598.

³³⁵ It is interesting to speculate here about whether or not Beowulf is even aware of the flight of his companions. The poem does not specify if he witnesses their retreat, and the struggle against an overwhelming foe would certainly not allow for distraction. However, Wiglaf's return to provide assistance (in direct violation to Beowulf's earlier command merely to observe) might prompt the hero to wonder why the majority of his warriors were not also present to offer help during his time of need.

only a few lines earlier by Beowulf during his oration before the fight against the dragon, now resonates with the audience observing that same hero fall victim to trusting cowardly retainers, who themselves are not mindful of obligations toward their own reliable leader. Beowulf may use his dying speech to assert his honesty in upholding his responsibility as king, despite the failure of his own followers to conduct themselves with similar comportment, to indicate that blame for the coming difficulty of the Geats lies not with him, but the faithless retainers who cannot follow his example of proper conduct. Such an implied condemnation of the surviving Geatish warriors, reinforced later by Wiglaf's own censure, necessitates Beowulf distancing himself from their failure with an assertion that he has always performed his role in this relationship according to the customary social expectations. The leader's honesty, as comforting as his fidelity may seem, ultimately has no power to prevent the betrayal of the retainers who count their own lives as more important than their integrity. Interpreting oaths through such a perspective, where the faithfulness in the leader cannot guarantee identical behavior in followers, offers a haunting glimpse into the potential collapse of the essential bond holding the community together. Wiglaf confirms this view by explaining the effect of their decision to the cowardly warriors:

<i>þæt, la, mæg secgan</i>	<i>se ðe wyle soð specan,</i>
<i>þæt se mondryhten,</i>	<i>se eow ða maðmas, geaf,</i>
<i>eoredgeatwe,</i>	<i>þe ge þær on standað –</i>
<i>þonne he on ealubence</i>	<i>oft gesealde</i>
<i>healsittendum</i>	<i>helm ond byrnan ,</i>
<i>þeoden his þegnum,</i>	<i>swylce he þrydlicost</i>
<i>ower feor oððe neah</i>	<i>findan meahte –</i>

þæt he genunga guðgewædu

wraðe forwurpe, ða hyne wig beget,

‘Indeed, he who will speak the truth may say that the lord who gave treasure to you, the war-gear in which you stand – when he often used to distribute on the ale-benches helmets and war-shirts to the hall-sitters, a prince to his thanes, such as he the mightiest anywhere both far and near could find – that he threw away the war-gear to his distress, when war came upon him.’³³⁶

Wiglaf’s call for the shamed retainers to speak honestly is a scathing indictment of their collective violation of Beowulf’s trust, which they should have preserved in exchange for the exceptional equipment he provided to them. Even if the audience might forgive the retainers for not joining the fight against the dragon, as they are previously instructed, Wiglaf’s indignation at their cowardly retreat to the woods seems entirely justified. Furthermore, the audience is invited to make the comparison between the reaction of the majority of the retainers to the need of their lord and Beowulf’s reaction to the need of his community. Wiglaf’s explanation of the honest treatment of such undeserving cowards further highlights the disparity between Beowulf’s own bravery and the serious betrayal of those warriors who flee, despite being removed from the actual battle and protected by their equipment.³³⁷ As Wiglaf and Beowulf both indicate, a fundamental problem with dishonesty is the inability of an honest person to prevent lapses of truth in others, even when they are indirect failures to act according to the expectations of previous words. No amount of justification or complaint by either

³³⁶ *Beo.*, ll. 2864 – 72.

³³⁷ Ironically, Wiglaf’s observations may also be an indirect condemnation of Beowulf’s reign because he places unwarranted trust in men who fail to offer proof of their loyalty. This assessment is reinforced by the notion that, as king, Beowulf should have delegated the fight against the dragon to another warrior, thereby allowing the rise of another hero, rather than risking the life of the ruler in such a perilous fight.

Geatish leader can avoid the complicated effects of dishonesty as it undermines the social relationships holding together the community.

While the bonds of oath-taking joining a lord and his retainers provides one potential reading of the oaths mentioned in Beowulf's final speech, it is also possible that the *fela aða on unriht*, 'many oaths [not sworn] wrongfully,' refer to the establishment of formal treaties for peace between the Geats and their neighbors. The length of Beowulf's reign and the peaceful nature of that period are both facilitated by the honesty he uses in his political relationships. By dealing earnestly with enemies, rather than trying to mislead, falsely flatter, or betray them, Beowulf establishes a clear reason for his neighbors to respect a cessation of violence during his reign. The most compelling evidence favoring this interpretation of the 'many oaths' is found in the close proximity of Beowulf's claim regarding his honesty to the pronouncement about the harmony he experiences with the neighboring peoples. Indeed, a causal relationship potentially exists between these two points of success in Beowulf's tenure as king. In his speech before Beowulf's funeral, Wiglaf recounts the reasons for fear among the Geatish survivors when the Franks, Frisians, and Swedes learn about the death of the king. In addition to Wiglaf recounting the lengthy history of the conflict between the Geats and their enemies, punctuated by bloody battles, he emphasizes the severity of the problem by stating: *Ne ic te Sweoðeode sibbe oððe treowe / wihte ne wene*, 'I do not expect any friendship or trust from the Swedish people'.³³⁸ With the demise of Beowulf, all reasons for believing the Swedish words of peace have also disappeared, and Wiglaf anticipates their long-time foes will return to dealing duplicitously with them in the absence of an explicitly honest broker of peace. The impending collapse of the Geats under the pressure of resurging foreign hostility furthers the reading of Beowulf's

³³⁸ *Beo.*, ll. 2922 – 3a.

principled oath-taking as closely linked to the establishment of diplomatic ties. In the wake of the tragic death of their king, the Geats lose more than an important military leader; they ultimately lose the integrity and reliability necessary to prevent their enemies from turning against them with the unrestrained violence that Beowulf prides himself on having avoided for the fifty years of his reign.

Comparative depictions of oath-taking drawn across multiple sources yield an abundance of information about how both Anglo-Saxon and Icelandic cultures typically respond to internal and external pressures challenging the integrity of such exchanges.³³⁹ As exemplified by the alternate interpretations of Beowulf's dying remarks about honesty, the representations of swearing within the corpus of extant literature from Iceland and Anglo-Saxon England can enrich our appreciation for this legal feature. Although we may be tempted to dismiss the oaths mentioned above as both overly vague and entirely inconsequential, they actually provide salient points of inquiry allowing us to connect *Beowulf* with a larger body of writing that shares a mutual respect both for language and for the power it possesses to provide attestation on collective and individual levels. Searching the corpus of Anglo-Saxon and Icelandic literature for examples of swearing, however, reveals that many of these texts do not include the actual oath itself.

For those occasions when the language of swearing is absent from the text, determining how individuals are bound together through relationships built on loyalty, honesty, and personal honor is still possible. Looking, for example, at the record of the fight between Cynewulf and Cyneheard from the *Anglo-Saxon Chronicle* provides confirmation of how directly assumptions

³³⁹ For more about the way literature reflects legal pressure, see June Starr, "The 'Invention' of Early Legal Ideas" in *History and Power in the Study of Law: New Directions in Legal Anthropology*, ed. June Starr and Jane F. Collier (Ithaca, NY: Cornell University Press, 1989), p. 351.

about a leader's honesty impinge on the corresponding expressions of loyalty offered by retainers, all of which ultimately dictates how violent the resolution of feud can become. After Prince Cyneheard and his soldiers ambush King Cynewulf, their side offers *feoh ond feorh*,³⁴⁰ 'money and life' to any royal retainers interested in defecting to their side. Neither side, however, can negotiate with their opponents without a considerable fear of betrayal. Cyneheard has already proven willing to attack his enemies when they are most vulnerable, thus instilling fear that his promises may only be elaborate ploys to lure the remaining warriors to their deaths. Likewise, Cynewulf's surviving retainers would be demonstrating an opportunistic desire for self-preservation at the cost of their loyalty, making them equally suspect for future betrayal. The forthcoming violence, signaled by the arrival of Earl Osric and the remainder of Cynewulf's forces, further emphasizes the impossibility of peace when treachery is present.³⁴¹ Cyneheard's second and more generous offer, which he pleads with them to take, *hiera agene dom feos ond londes*,³⁴² 'their own choice of money and land,' is likewise rejected by Cynewulf's forces, whose sole desire is the death of their lord's killers. While the bloodshed following Cyneheard's mistrust is an example of the destructive power of such broken relationships, it also clearly illuminates the achievement of Beowulf in properly protecting his personal reputation for being trustworthy and trying to enforce that same behavior on his community during his lifetime.

³⁴⁰ "Cynewulf and Cyneheard" in *The Cambridge Old English Reader*, ed. Richard Marsden (Cambridge: Cambridge University Press, 2004), p. 248.

³⁴¹ The parallel to Beowulf's situation is also interesting in that Osric and his soldiers have, like the Geatish retainers, been ordered away from Cynewulf when he is attacked. Unlike Beowulf's cowardly band that flees the fight, Osric's soldiers enter the fight against their opponent in spite of their previous directive. Ironically, however, neither Beowulf nor Cynewulf receives the help of their companions in time to save them from death.

³⁴² "Cynewulf and Cyneheard," p. 249.

Enhancing the examples of Cynewulf and Cyneheard as support for Beowulf's claims about honesty, we need only turn to the corpus of Icelandic literature to acquire additional substantiation of the firm relationship between trust and peace. One of the strongest instances of just this type of bond is found early in *Brennu-Njáls saga* when Bergthora, Njal's wife, becomes involved in a bitter feud with Hallgerd, the wife of Gunnar, arising from insults exchanged during a seating dispute during a communal *vetrgrið*,³⁴³ or 'winter feast.' Although the violence of this feud begins to spiral wildly out of control due to the goading of the women and increasingly involves higher-status individuals from each household, Gunnar and Njal manage to remain honest with each other about their desire for peace and continued friendship.³⁴⁴ During the settlement for the first killing, Njal and Gunnar candidly reconcile over the slaying of Njal's servant Kol without the saga redactor reporting any feelings of bitterness from either party. Indeed, as Njal determines the self-judgment offered by Gunnar in arbitrating the case, he says: *ok munu vit þess þurfa at muna þat, er vit hofum lengi vel við mælzki*, 'and we two will need to call to mind these things, which we have been saying to each other for a long time'.³⁴⁵ Njal refers to their mutual friendship as a way to calm the tension of the feud and to assure Gunnar that peaceful resolution is possible when both men remain confident about each other's integrity. For these two men, continued friendship offers more benefits than the escalation of the feud, necessitating that they must rely on the guarantees of settlement to

³⁴³ Einar Sveinsson, ed., *Brennu-Njáls saga*, vol. 12 of *ÍF* (Reykjavík: Íslenska Fornritafélag, 1954), p. 90. Hereafter abbreviated *Njála*.

³⁴⁴ The violence of the feud between Hallgerd and Bergthora is initially contained only between household servants; yet it does not take long for the fatalities to increase in social importance after Njal elevates the compensation for his servant Atli to that of a free man. After Atli is killed, increasingly more important figures in each household become drawn into the feud, threatening to pull Gunnar and Njal themselves directly into the fight.

³⁴⁵ *Njála*, p. 94.

contain its spread. This is certainly the case when neither Bergthora nor Hallgerd seem content to limit the feud, despite the commands of their husbands. Much like the retainers who reject Beowulf's final order at the expense of their integrity, Bergthora and Hallgerd also make a conscious choice to reject the peaceful resolution effected by the men. While the situation in *Brennu-Njáls saga* does not precisely parallel the question of obedience and integrity raised in *Beowulf*, it does create an equally difficult situation where the hero's integrity sharply contrasts with his companions.

In an example commensurate to Beowulf's own assertion about how closely peacefulness is coupled with honesty, both Njal and Gunnar maintain an amicable rapport throughout the violent course of the feud. Unfortunately, we can only speculate about the existence of deeper bonds, like sworn oaths of blood-brotherhood, as an explanation for the profoundly enduring friendship existing between these two men. The audience is never witness to any specific oaths sworn by either man to create such a solid friendship, and the prior conversations shared between Njal and Gunnar express this relationship without defining it beyond Gunnar turning to Njal for advice. Regardless of how limited the details of the saga are about the connection between Njal and Gunnar, their words of settlement are sufficiently strong enough to allow each critical moment of arbitration to conclude with peace until the women again incite trouble; when that resolution is subsequently broken by the wives, each new eruption of violence can return to harmony because, as Beowulf implies on his deathbed, the absence of deception creates a stronger potential for genuine harmony. Neither Gunnar nor Njal have reason to betray the commitment of their friendship, thus proving Beowulf's own association of honest speech with the durability of reconciliation. Moreover, these literary representations of critical moments emphasize the spirit of trust necessary for swearing to function successfully, especially when those around the hero disregard his earlier words,

providing audiences with a deeper insight into what truth and honesty mean as part of the core values mutually understood by Anglo-Saxon and Icelandic communities.

The consideration of a motif-based approach in order to expand our appreciation of the principles of swearing notwithstanding, we must place some limits on the scope of the literature examined. The rich corpus of literature existing in early medieval England and Iceland presents fertile ground for the exploration into sworn language's literary role; no single body of writing provides more carefully arranged narratives about legal and social interaction than the *Íslendingasögur*, the sagas of Icelanders.³⁴⁶ These works, which Carol Clover describes as "an acentric bundle of interlocking subplots," provide numerous points of plot where personal interactions involving sworn language can be observed.³⁴⁷ Additionally, this Icelandic saga material provides a useful focus on the complexity of Icelandic legal traditions. Hermann Pálsson states: "It would be a serious mistake to assume that legal issues in the sagas were necessarily narrated as entertainment by regular storytellers during the phase of oral transmission."³⁴⁸ Rather than remain silent about the process of legal challenges, therefore, saga narratives frequently include these moments in vivid detail as they become critical components of the plot. This focus on the intersection of law and the individual makes the sagas of Icelanders an important resource for the intersection of social expectation and legal reality for the subject of swearing. Likewise, Vesteinn Ólason characterizes these stories as possessing centrally unifying

³⁴⁶ Vesteinn Ólason's entry in *Medieval Scandinavia: An Encyclopedia* notes that the number of *Íslendingasögur* is between thirty-five and forty texts. *Þættir*, short stories, are often grouped into this collection, but no scholarly consensus exists on a precise number for these texts. I have selected, therefore, thirty-nine sagas and thirty-three *þættir* to include within the scope of this study based on the contents of *Íslensk Fornrit*. See Vesteinn Ólason, "Íslendingasögur," *Medieval Scandinavia: An Encyclopedia*, ed. Phillip Pulsiano (New York: Garland Publishing, 1993), p. 334.

³⁴⁷ Carol Clover, *The Medieval Saga* (Ithaca, NY: Cornell University Press, 1982), p. 54.

³⁴⁸ Hermann Pálsson, *Oral Tradition and Saga Writing* (Vienna: Fassbaender, 1999), p. 92.

themes related to, “on the one hand, a concept of honour, and, on the other, society’s laws and traditional methods of resolving disputes,” which allow many of these narratives to easily connect with concerns about how reputation pertains to honesty.³⁴⁹ In this regard, the *Íslendingasögur* offer many significant examples of oath-taking, providing especially detailed contexts both for the events prior to swearing and for the outcomes following such exchanges.

While the Anglo-Saxon literary world may lack a comparably extensive collection of narratives as cohesively connected by subject and style³⁵⁰ as the *Íslendingasögur*, early English society is not without its own store of texts dealing with questions of honesty within their greater narratives, notably within Old English poetry. While some Anglo-Saxon texts may be more indirect in their representation of swearing than the sagas, they still reveal important information about social, religious, or moral implications for oath-taking. What unites both of these collections, however, is the way that concerns over honesty are frequently paired with themes of community, heroics, and power in identical ways. Thus, even though the English materials may not overtly provide the same expressions of oath-taking as the Icelandic sources, they both emphasize the significance of honesty in building relationships between individuals and within the community. Old English narrative poems, such as “The Battle of Brunanburgh,” “The Battle of Maldon,” *Beowulf*, and “Judith,” are well known for dynamic heroes, who struggle to maintain honor and integrity in the face of overwhelming moral and physical challenges. Like the sagas, these narratives also provide the audience with moments when the struggles of one

³⁴⁹ Vésteinn Ólason, “Family Sagas,” in *A Companion to Old Norse-Icelandic Literature and Culture*, ed. Rory McTurk (Malden, MA: Blackwell Publishing, 2007), p. 103.

³⁵⁰ Stylistically, the sagas are a very uniform body of literature. Their plots are guided by the conflicts arising from feud, involve a straightforward description, a chronological sequence of plot, and employ a third-person narration interspersed with significant moments of dialogue. See Peter Hallberg, *The Icelandic Saga*, trans. and ed. Paul Schach (Lincoln, NE: University of Nebraska Press, 1962), p. 70.

character become emblematically positioned against the larger questions of reputation and behavior that underpin these texts. A large body of scholarship written about *Beowulf*, for example, evaluates the eponymous hero's deeds not only in terms of their heroic significance but also as deeper symbolic messages to be interpreted against the wider backdrop of Anglo-Saxon religious and cultural values.³⁵¹ Among those values defining correct behavior, personal reputation, and honesty are two of the defining traits of the hero, who must strive to match the expectation of action with carefully spoken words. Although physically overcoming adversity acts as the most significant measure of reputation demonstrated by these heroic protagonists, such texts often explore the more nuanced questions about the individual's relationship with society in equally important ways. In this respect, the substance of longer Old English heroic poems closely resembles those sagas considered to be biographical, whose focus on specific individuals also provides the means by which to consider in more depth the bonds existing between heroes and the communities in which they live.

Although the corpus of Anglo-Saxon heroic poems is arguably the most influential collection of literary works from this culture, these texts are only one type of the available literary sources from early England employing the motifs of sworn language and honesty. The so-called elegiac poems are another significant collection of Old English texts, outside the heroic tradition, whose characters also provide us with examples of how honesty functions as a critical literary theme connecting the individual's words to the community evaluating the value of that speaker. The plaintive verses of these poems are often filled with longing for inclusion and a genuine desire for lasting relationships, all of which bespeak the role of the individual within a

³⁵¹ See George Clark, "The Hero and the Theme," in *A Beowulf Handbook*, ed. Robert Bjork and John Niles (Lincoln, NE: University of Nebraska Press, 1997): 271-90.

wider context of social order.³⁵² Moreover, outside the community where an individual's reputation originates, words cannot have the same reliability to make them acceptable. As a result, many of these narratives explore the challenges arising to reputation, especially in the absence of community support, which occur outside standard heroic contexts. "Deor," "The Wanderer," "The Seafarer," "Wulf and Eadwacer," "The Wife's Lament," and "The Husband's Message," for example, relate the experiences of individuals disconnected from society, crying out for someone who knows them while also addressing the influences of time and change on the durability of such relationships. As Melanie Heyworth says, "All the elegies' speakers are socially removed, isolated, and solitary, a state likely to provoke nostalgia for a past that was socially bonded and secure. In other words, the elegies' speakers are positioned in situations that facilitate the possibility for reminiscing nostalgically for an idealistic Anglo-Saxon social paradigm of social integrity and security."³⁵³ Indeed, these feelings of isolation and social detachment are frequently linked with the pressing concerns of the speaker not having a sense of identity beyond the community. The tone of unease that serves as a unifying feature of this elegiac writing is closely related to concerns about an inability to trust and be trusted by those unfamiliar with the speaker. As a result, these secular lyrics of exile and social detachment make excellent companion texts through which to consider the moments in the saga narratives where community conflicts put relationships with trust and honesty to the test.³⁵⁴

³⁵² John Dennis Grosskopf, "Time and Eternity in the Anglo-Saxon Elegies" in *Time and Eternity: The Medieval Discourse*, International Medieval Research 9, eds. Gerhard Jaritz and Gerson Moreno-Riano (Turnhout: Brepols Publishers, 2010), p. 323.

³⁵³ Melanie Heyworth, "Nostalgic Evocation and Social Privilege in the Old English Elegies," *Studia Neophilologica* 76 (2004): 7.

³⁵⁴ Although many of these elegiac and heroic pieces of literature contain pertinent themes, this dissertation will deal with only a representative sample, including "The Battle of Maldon," *Beowulf*, and "The Wanderer."

While considering the many ways Icelandic saga narratives dovetail thematically with the poetic texts of the Anglo-Saxons, any study of the literary motifs of honesty and swearing would be incomplete without also exploring the religiously-based texts responsible for providing the moral framework for society. The most logical texts to provide these worldviews are the various pieces of gnomic wisdom literature, such as the Old Norse poem *Hávamál* and the Old English “Maxims,” that deal with outlining human relationships within the context of the natural world and within the community. Carolynne Larrington asserts that gnomic poems in the Anglo-Saxon and Icelandic world are “no mere collections of truisms,” rather they reflect a conscious effort to depict the order of the world by establishing those natural and man-made systems within which society functions.³⁵⁵ In addition to the wisdom poetry found within these two traditions, I also consider other texts, especially religious and mythological works, whose literary examples provide additional glimpses into the behavioral and cultural norms present within Anglo-Saxon and Icelandic culture. The Codex Regius manuscript, also known as the *Poetic Edda*, includes many such narrative illustrations of the principles central to the social behavior and characteristics of pre-Christian Germanic practice. In ways similar to pre-Christian writings about truisms and cultural expectations, Old English gnomic writings also pair nicely with Old English homilies and hagiographic texts, whose explicitly Christian elements frequently discuss those social expectations and behaviors that reinforce the ideals expressed within the Anglo-Saxon heroic narratives and Icelandic sagas. Thus, the Norse pre-Christian and Anglo-Saxon Christian texts from the religious and gnomic traditions provide additionally important loci for studying the ways language intersects with morality and social order in the form of sworn language. Drawing from these foundational pieces of Old English and Old Norse-Icelandic

³⁵⁵Carolynne Larrington, *A Store of Common Sense: Gnomic Theme and Style in Old Icelandic and Old English Wisdom Poetry* (Oxford: Clarendon Press, 1993), p. 67.

literature, therefore, this chapter explores the motif of swearing for its enduring and influential role. By exploring the ethical context, critical details, and harmful violations surrounding honesty, we can gain a better understanding of how swearing is closely connected to matters of society and governance, determinations of truth, and efforts to safeguard these very practices against the threat of deception.

Swearing as the Literary Motif of “Society”

Oath-taking possesses a social dimension important for its proper function, as demonstrated by the continuous community involvement in such exchanges. Trusted friends serve as the witnesses, relatives attest to the probity of their family members, and neighbors act as the arbiters sanctioning the validity of any swearing. Thus, the rituals behind each act of oath-taking do more than bring together individuals within society; they also serve as the implicit guideposts of moral, social, and political order for that same set of individuals. As Sanford Levinson asserts: “In any case, the limits of tolerance may be marked by oaths that both measure assent to the community’s central propositions and put the oath-takers on notice of the boundaries beyond which they go only at the peril of communal reproach.”³⁵⁶ Given that oath-taking reveals many of the complexities of society, the frequent presence of this motif throughout Anglo-Saxon and Icelandic literature reinforces how words bind and even make the community.

Many protagonists in both the *Íslendingasögur* and Old English narratives seek to elevate their social positions largely by maintaining positive reputations and trying to prevent disgrace from tarnishing that public standing. This dichotomy of honor and shame, which guides behavior within these texts, generally encourages each character to conduct himself or herself

³⁵⁶Sanford Levinson, “Constituting Communities Through Words that Bind: Reflections on Loyalty Oaths,” *Michigan Law Review* 84.7 (Jun., 1986), p. 1448.

bravely during battle, to possess a discerning mind, and to match actions carefully to words. Regardless of how the quest to earn respect manifests itself, any such effort depends exclusively on the receptivity of the community toward the actions of the hero.³⁵⁷ As Hugh Magennis asserts, “The insistence on community in Old English poetry is such that in many poems it appears that the life of the individual has no meaning away from community.”³⁵⁸ Integrity, the intersection between an individual’s honor and the social perceptions of his character, is the bridge that links the world of reputation to the essentials of swearing as they are expressed in literature. Indeed, swearing is governed by four critical features, each originating from the relationship between the individual and his surrounding community. As a result, the social aspects of honesty become the foundation upon which the literary world also constructs truth, especially by means of the force of socially derived reality or veracity.³⁵⁹ These four critical features for oath-taking include knowledge of an individual’s identity, accuracy of the words, the quality of witnesses,³⁶⁰ and the integrity of the statement’s recipient.

The societal role associated with each of these features in the constructing of Anglo-Saxon and Icelandic realities, through the assessment and implementation of oath-taking, is also deeply associated with the discussions central to motifs of testing or deception. Overlapping

³⁵⁷ Michael Herzfeld asserts that concepts like honor and shame are largely context-specific classifications, which differ widely based on anthropological differences within communities. While Herzfeld argues for a more nuanced interpretation of these social markers, he continues to assert the role of community in determining how an action can be perceived either positively (honorably) or negatively (shamefully). See Michael Herzfeld, “Honour and Shame: Problems in the Comparative Analysis of Moral Systems,” *Man*, n.s., 15.2 (June 1980): 339 – 51.

³⁵⁸ Hugh Magennis, *Images of Community in Old English Poetry*, Cambridge Studies in Anglo-Saxon England 18 (1996; reprint, Cambridge: Cambridge University Press, 2006), p. 32.

³⁵⁹ See John R. Searle, *The Construction of Social Reality* (New York: Simon and Schuster, 1995), p. 4.

³⁶⁰ Witnesses are also subject to a certain level of social scrutiny to determine their value in the swearing process. Factors like status, affiliation to the individual swearing, and reputation among the community determine the quality of supportive testimony.

interests, therefore, can tie these lines of inquiry together, as the exploration of how an oath can be abused can also foster a wider discussion of how dangerously trusting society can become. This interwoven framework allows recognition of such overlapping themes present in these illustrations of swearing. Though all four parts of the process of swearing can be independently linked to each motif, I have elected to discuss the effect of swearing as a component of identity primarily through the lens of society. Likewise, the language of the oath and the quality of the witnesses will serve principally as the emphasis for the motif of testing, while the reception of the oath will function as the best means to discuss deception. Thus, while each of the four attributes of the oath may be related, the involvement of community in ensuring the smooth operation of swearing and the prevention of any abuse through the identification of an individual based on reputation emerges as the central feature guiding the process of swearing within the aforementioned literary corpus.

Identity initially appears to be a straightforward characteristic of sworn language, predicated on the recognition of a unique person through physical attributes and immaterial characteristics. A majority of English and Icelandic narratives, however, emphasize the struggle of the protagonist to make a distinctive mark on society by making his or her positive qualities known to his community. The pre-Christian poem *Hávamál* eloquently summarizes the necessity of a positive identity in stanzas seventy-six and seventy-seven, urging the audience to look beyond the standard markers of reputation.³⁶¹ The poet says: *Deyr fé, deyja frændr, / deyr*

³⁶¹ The markers of reputation, outlined in *Hávamál*, consist primarily of an individual's wisdom, bravery, generosity, and eloquence. Oath-taking requires a combination of all four of these qualities in some measure: linguistic fluency to make the expression, courage to stake one's reputation on the words, openhandedness to bring others into the arrangement as witnesses, and intelligence to judge the entire situation. These features, therefore, are also frequently used by saga authors as the means for descriptive introductions of characters. For example, in *Eyrbyggja saga*, when the foster father of Bjorn is introduced in the first chapter, he is portrayed as *vitr maðr ok ágætr*, 'a wise man and famous.' The pairing of distinguishing trait and reputation here is quite common in the introductory material of the sagas. Einar Sveinsson and Matthías Þórðarson, eds., *Eyrbyggja saga*, vol. 4 of *ÍF* (1935; reprint Reykjavík: Íslenska Fornritafélag, 1985), p. 4.

*siálfr it sama; enn orðztirr deyr aldregi, / hveim er sér góðan getr. / Deyr fé, deyja frændr, / deyr siálfr it sama; / ec veit einn, at aldri deyr: / dómr um dauðan hvern,*³⁶² ‘Cattle die, kinsmen die, and likewise the self dies; but renown never dies, for whomsoever gets a good reputation for himself. Cattle die, kinsmen die, and likewise the self dies; but I know one thing that never dies: the reputation of each dead man.’ Considering the importance of defining the intangibles of personal status, identity becomes an interesting combination of family lineage, wealth, and personal actions working together to define the individual. Sworn language, as one of the key determiners of reputation, also plays an important role in the formation of social status. Moreover, swearing deliberately invokes the individual’s name explicitly to link personal notoriety with the success or failure of each oath.³⁶³ Obtaining a lasting reputation, as advocated by Beowulf and the poet of *Hávamál*, means that each person must learn to balance personal connections to the community with expectations of honesty.

When identity is obscured or mistaken, however, problems can arise for the success of the language of oath-taking. The importance of recognition can be clearly seen in the passage from *Beowulf* when the Danish coast-guard cautiously approaches the party of Geatish warriors in order to ascertain their purpose in seeking Heorot. Margaret Pepperdene identifies this episode not only for the literary connections “between classical antiquity and the heroic age of western Europe” within the poem, but also for the way that this initial encounter between Beowulf and the Danes provides the point at which “Beowulf’s adventure in Denmark actually

³⁶²*Hávamál*, from *Edda, Die Lieder des Codex Regius nebst verwandten Denkmälern*, ed. Gustav Neckel and Hans Kuhn, 5th ed. (Heidelberg: Carl Winter, 1983), stanzas 76 – 7.

³⁶³ Beowulf’s final speech, again, links the idea of swearing honestly with the proper features of a successful warrior. See above, p. 145.

begins.”³⁶⁴ The guard challenges: *Nu ic eower sceal / frumcyn witan, ær ge fyr heonan / leassceaweras on land Dena / furþur feras*, ‘Now I would know your lineage before you from hence go further into the land of the Danes as spies’.³⁶⁵ This request bespeaks the larger assumption that any unknown man cannot possibly express his intentions without evoking suspicion in the mind of the listener. In the lines prior to this question, the sentry expresses the complexity presented by a war-band entering Hrothgar’s land so openly and with the seemingly heroic appearance of their leader. *Nis þæt seldguma, / wæpnum geweorðad, næfne him his wlite leoge, / ænlic ansyn*, ‘That is not a retainer distinguished by weapons, unless his look, the excellent countenance, plays him false’.³⁶⁶ Indeed, the sentry’s identification of the warriors as *leassceaweras*, ‘spies,’ implies that their anonymity and the nature of his duty prevent him from trusting their words, even if a full explanation of their purpose is given. It is not until Beowulf identifies his father, a man known in Hrothgar’s kingdom, that the sentry can relax his suspicions slightly.³⁶⁷ Providing his lineage grants Beowulf tolerance inside the kingdom by creating accountability, acknowledging who is ultimately responsible if these warriors are caught making trouble for the Danes. Indeed, this encounter along the Danish coastline offers only the initial test of Beowulf’s integrity through identity, and this routine reoccurs with increasing significance as the hero approaches the end of his journey.³⁶⁸ Thus, despite Beowulf’s own

³⁶⁴ Margaret Pepperdene, “Beowulf and the Coast-guard,” *English Studies* 47 (1966): 409.

³⁶⁵ *Beo.*, ll. 251b – 54a.

³⁶⁶ *Beo.*, ll. 249b – 51a.

³⁶⁷ Beowulf identifies his father as *folcum gecyþed*, ‘known by the people,’ in line 262b. Likewise, he further establishes his identity in lines 265b – 6 by describing Ecgtheow: *hine gearwe geman / witena welhwylc wide geond eorþan*, ‘every man far and wide knew him throughout the earth.’ Still, however, the coastguard personally accompanies the Geats, perhaps as much out of caution as courtesy.

³⁶⁸ Beowulf must declare his identity formally twice more, at the door for the herald Wulfgar (ll. 342b – 7) and also before the king himself (ll. 407 – 55). Each time he provides more information about his kinship and political affiliations to continue strengthening the formation of his identity among the Danes. The

appearance as a heroic character, his language does not enjoy the full measure of trust among the Danes until it is given the benefit of being connected explicitly to an ancestry known to the community.

While the example of Beowulf demonstrates the benefits of connecting oneself with an established identity for the purpose of gaining credibility, the correlation between dependability and recognition is further supported by those instances when anonymity complicates situations involving trust. *Brennu-Njáls saga* includes one of the most interesting moments of concealed identity within its opening episodes. When the audience first encounters Gunnar Hamundarson, he takes responsibility for the legal case of his relative, Unn, to recover the money lost by her father in her earlier divorce. To assist in the complicated process of restarting the legal case, Njal advises his friend to employ a carefully crafted disguise to mislead his opponent into providing the exact wording necessary to issue the legal summons for the lawsuit. The saga records:

Nú skalt þú ríða heiman við þriðja mann; skalt þú hafa vaskufl yztan klæða ok undir soluváðarkyrtil móredan; þar skalt þú hafa undir in góðu klæði þín ok taparøxi í hendi...Þá mun eptir spurt, hvern sé sá inn mikli maðr. Forunautar þínir skulu segja, at þar sé Kaupa-Heðinn inn mikli, eyfirzkr maðr, ok fari með smíði; hann er maðr skapillr ok margmæltr, þykkisk einn vita allt; hann rekr aptr kaup sín optliga ok flýgr á men, þegar eigi er allt gort sem hann vill...mun þá sá orðrómr á leggjask, at Kaupa-Heðinn sé manna verstr viðfangs ok sízt sé logit frá honum,

Now, you should ride from home with three men, and you should wear a rain-cloak on the outside with a homespun tunic underneath; then you should also wear your good clothing under that and carry a small ax in your hand...Afterwards [the people of the

final challenge to identity comes from Unferth's *flyting* episode (ll. 506 – 606), which requires Beowulf to directly account for questions about his past actions.

area] may ask who the bulky man is. Your followers should say that he is the mighty Peddler-Hedin, a man from Eyjafirth, and he is traveling with merchandise; he is a derisive and talkative man, who considers himself to know everything; he frequently voids his bargains and immediately flies at men when things do not go as he wishes... public opinion will arise that Peddler-Hedin is the worst of men to deal with and what is told of him is true enough.³⁶⁹

Rather than approaching Hrut with a straightforward challenge, Njal's strategy to reopen the lawsuit depends almost entirely on exploiting the established social expectations regarding reputation affecting legal credibility. Njal knows that a persona deliberately crafted to exhibit aggression and dishonesty will mislead Hrut and his household into believing that no valid legal summons could come from someone with such questionable moral character. By placing Gunnar on the fringes of a community, as a traveling salesman, and tainting that position further with accusations of dishonest deals, Njal exploits Hrut's own expectations about the behavior of a guest in his household and his erroneous assumptions about the integrity of a fictional persona based only on misdirected rumors.

Njal's effort to ensnare Hrut using social expectations is further elaborated by the careful way this false identity is constructed. Even the witnesses accompanying Gunnar are not made less threatening to Hrut, since Njal instructs them to instigate the stories about Hedin's flawed character. This lessens concerns over their role in any legal action by giving Hrut the impression they will be reluctant or unable to support his claims. As clever as this manipulation of identity seems, the ruse does not succeed for Gunnar. Because he focuses so intently on disguising himself from Hrut, he neglects to collect the words in the proper sequence with

³⁶⁹ *Njála*, pp. 59-60.

proper attesting witnesses to prevent the lawsuit from being declared procedurally invalid. Indeed, because he enters Hrutsstadir while known as Peddler-Hedin, Gunnar's refutation of Hrut's claim will require him to reveal, before the court, the extent of his effort to conceal his true identity. Such a revelation undermines the presentation of the case, especially when procedure dictates that Gunnar must offer while under oath, *at því at hann segi sok sína fram*,³⁷⁰ "that he is presenting his case." While Gunnar and Hedin are technically the same individual, such an attempt to manipulate the case undermines any trust that Gunnar may need to prosecute his claim. William Pencak summarizes the situation as follows: "Njal must use unjust means (the tricking of Hrut through the disguise of Gunnar) to plead what may be technically a just case, although both Njal and Gunnar question the moral validity of Unn's claim. Then Gunnar, who was trying to catch Hrut on a technicality, trips up on one himself by not having witnesses present, whereupon he tries to salvage his case by resorting to the same 'illegal' challenge he was trying to overcome!"³⁷¹ Although the plan to disguise Gunnar's identity may not be the only complication obscuring justice in *Brennu-Njáls saga*, it does provide a very clear example of how important credibility among the community is for the process of justice. Once the reality of Gunnar's disguise is revealed and his legal options become limited, he is forced to rely on strength rather than the assistance of neighbors and relatives, whose reluctance to attach personal reputations to questionable legal situations is understandable.

Gunnar's attempt at disguise in *Brennu-Njáls saga* provides one clear example of how

³⁷⁰ *Grágás*, 1:54.

³⁷¹ William Pencak, *The Conflict of Law and Justice in the Icelandic Sagas*, Value Inquiry Book Series 21 (Atlanta, GA: Rodopi, 1995), p. 19.

important identity created within the community is for empowering honesty,³⁷² but there are more just like it. Those Icelandic sagas focusing on the lives of outlaw-heroes also echo the concerns regarding the implicit complications of separating a warrior's reputation from the society responsible for validating trust in him. As these heroes become further alienated from the locus of their identity, the moral challenges to integrity and truth become increasingly harder to define and control. The initial manifestation of such an erosion of truthfulness often takes the form of the hero disguising himself by concealing his identity for protection. Outlaws commonly resort to wearing heavy cloaks, using false names, and otherwise obscuring themselves to travel freely among the communities that have previously rejected them. *Grettis saga Ásmundarsonar*, the account of Iceland's longest surviving outlaw, provides a number of examples of how Grettir avoids capture through disguise, while he continues residing among the very people hunting for him. Using tricks to deceive the community and obscure his person, however, puts Grettir at an increased risk of his opponents, like Thorbjorn, resorting to similarly fraudulent means to capture him. One of the best examples of how the erosion of identity directly threatens Grettir is found in chapter seventy-two of the saga, when he attends the Hegrane Assembly under the pseudonym of "Gest," and the crowd urges him to compete in the wrestling matches.³⁷³ Grettir's initial refusal on the grounds of being a stranger is met with increasingly forceful requests by the men of the district, until he is eventually offered a very generous pledge of security to elicit his participation. Haf Thorarinson, who proposes the

³⁷² It is interesting to note that Gunnar's disguised identity does not cause his reputation to suffer. While modern readers might expect the community to brand Gunnar as underhanded, he is able to maintain his position as the honorable hero in spite of this episode of dishonesty.

³⁷³ *Gestr*, the name given by Grettir, actually is the word for "visitor, guest, or stranger," and it offers only a minimum level of disguise. Nevertheless, Grettir's opponents are often so easily duped, as in chapter sixty-three, when only a broad hat and staff are enough to transform the hunted hero into a "beggar" who misleads his foes. Similar events occur in the Middle English romances *Bevis of Hampton* and *Havelok the Dane*.

formulaic truce, offers particularly generous terms to Grettir with a moment of swearing designed to assuage any concerns about violence. The saga thoroughly notes the wording of this agreement, enumerating the language of each provision, rather than abridging this transaction, thus serving as an invaluable example of the process of impromptu swearing:

“Hér set ek grið,” segir hann, “allra manna á millum, einkanliga þessum sama Gesti til nefndum, er hér sitr, ok at undir skilðum ollum goðorðsmonnum ok gildum bændum, ok allrar alþýðu vígra manna ok vápnfærra, ok allir aðrir heraðsmenn í Hegranessþingi...Set ek þessi grið fyrir oss ok vára frændr, vini ok venzlamenn, svá konur sem karla, þýjar ok þræla, sveina ok sjálfráða men. Sé sá griðniðingr, er griðin rýfr eða tryggðum spillir, rækr ok frá guði ok góðum monnum, ór himinríki ok frá ollum helgum mannum, ok hvergi hæfr manna í milli ok svá frá ollum út flæmðr sem víðast varga reka eða kristnir men kirkjur sækja, heiðnir men hof blóta, eldr brennr, jorð grær, mælt barn móður kallar ok móðir mog fæðir, alder elda kynda, skip skriðr, skildir blíka, sól skinn, snæ leggr, Finnir skriðr, fura vex, valr flýgr várlangan dag, ok standi honum beinn byrr undir báða vængi, himinn hverfr, heimr er byggðr, ok vindr veitir votn til sjávar, karlar korni sá; hann skal firrask kirkjur ok kristna men, heiðna holða, hús ok hella, heim hvern, nema helvíti.”³⁷⁴

“Here I make a truce,” he said, “between all men, particularly to this same one named Gest, who is sitting here, and it includes all the chieftains and great freeholders, and all the common men capable of battle and bearing weapons, and all other men from the district of the Hegranes Assembly...I establish this peace for us and our kinsmen, friends and relatives, for men and women, bondwomen and slave men, boys and free-men. He is a truce-breaker, whoever breaks this truce or invalidates this pledge, and he is

³⁷⁴ Guðni Jónsson, ed., *Grettis saga Ásmundarsonar*, vol. 7 of *ÍF* (1937; reprint, Reykjavík: Íslenzka Fornritafélag, 2001), pp. 232 – 3. Hereafter abbreviated *Grett*.

banished from God and good men, from the kingdom of heaven and from all holy men, and nowhere is he fit to be among men and driven out from all just as widely as wolves are hunted or Christian men seek a church, heathen men sacrifice at temples, fire burns, earth grows, a crying child calls its mother, and a mother rears a son, a man lights a fire, a ship sails, shields gleam, the sun shines, snow blows, a Finn skis, a fir-tree grows, a hawk flies for the spring-long day with a strong wind in his keeping under both wings, heaven turns, home is built, wind leads water to the sea, and men sow grain; he shall be deprived of the church and Christian men, heathen men, house and stone, every abode, except hell.”

Haf crafts an impressively official truce, praised as being offered with *mikilli roksemð*, ‘great authority’ by the audience, and those same assembled crowds also fall for Grettir’s ethical entrapment with eagerness in their desire to watch Grettir wrestle.³⁷⁵ The extensive list of adherents offered before the swearing, intended to assure Gest that the entire community will honor the speech, leaves the Assembly little possibility of refusing the truce without risking the equally extensive punishment that follows.

Despite the risk of exile and the damage to community honor, the threat of violence does intrude into the scene once Grettir deliberately reveals himself to his enemies to test their honor and honesty. For a moment, the truce seems at the point of shattering as *vildu sumir halda griðin, en sumir eigi*, ‘some wished to maintain the truce, but others did not’.³⁷⁶ Those calling for renewed violence could theoretically justify their action by arguing that the

³⁷⁵ An almost identical situation presents itself in chapter thirty-three of *Heiðarvíg saga*, when Thorgisl Arason is tricked into pronouncing a truce with his opponent Bardi, who has joined their group in disguise and under the cover of darkness. Like Haf, Thorgisl has his speech praised as he too constructs an elaborate verbal cage that then forces him into peaceful settlement with his former foe.

³⁷⁶ *Grett.*, p. 234.

agreement was technically made in bad faith with an “unknown visitor,” whose initial misrepresentation of himself before the Assembly should invalidate the entire act. Indeed, an outlaw denied the protection afforded by law would seem an unlikely candidate to make credible accusations of dishonesty against those seeking his death. This fraudulent moment of swearing, therefore, serves no real preventative measure against violence threatening Grettir. Lurking underneath the light-hearted humor of this foolish pledge, which depicts Grettir’s opponents as equally imperceptive and rash, is the grim revelation that this abuse of identity and heightening of the moral danger helps to propel the narrative toward the compromising behavior that will cost Grettir his life. Grettir’s backing of his foes into an ethically problematic choice, where they must choose between either a high-cost alternative of forgoing vengeance or acting in a morally corrupt way, makes it easier for Thorbjorn to forsake integrity later when the hostilities resume. Pencak observes: “When Grettir appears not as ‘the famous outlaw’ but as an anonymous ‘Guest,’ he is popular for both his personality and abilities. But the refusal of the Thingmen to accept common-sense justice and put their feelings [sic] and salvation over an outlawry verdict sixteen years old signals the end of the sense of honor and decency which had to support legal technicalities.”³⁷⁷ Thorbjorn does employ evil sorcery to attack and weaken Grettir after the events at the Hegranes Assembly, thereby risking the same exclusion from the community – especially from a Christian perspective – which Haf’s language offers as punishment.³⁷⁸ By pushing the limits of swearing, the hero reveals how delicate these bonds of honesty are when truly tested. As Grettir turns the forces of identity and honesty against the

³⁷⁷ Pencak, *The Conflict Between Law and Justice in the Sagas*, p. 48.

³⁷⁸ *Grettis saga*, like *Beowulf*, includes an undercurrent of Christian morality in the hero’s story, as many of Grettir’s battles involve monsters threatening churches or other religiously significant locations. See Andy Orchard, “Grettir and Grendel Again,” in *Pride and Prodigies: Studies in the Monsters of the Beowulf-Manuscript* (Toronto: University of Toronto Press, 1995), p. 168.

entire community, this behavior only encourages his foes to ignore these very same limitations later when they resume the pursuit of vengeance against him.

While concealed identity and compromised honor may initiate the moral collapse that eventually kills Grettir, the consequences of a separation from community are not always so overtly destructive to the individual. Additional literary accounts of exile confirm that separation from regular society actively impairs an individual's integrity. One such illustrative glimpse into the harm caused by social displacement is found in the Old English poem "The Wanderer," from the Exeter Book, which voices the initial hopelessness of the narrator's desire to recover from the loss of the companions who vouched for his reputation and established his identity. The poem recounts:

Oft ic sceold ana uhtna gehwylce
mine ceare cwipān. Nis nu cwicra nan
þe ic him modsefan mine durre
*sweotule asecgan.*³⁷⁹

Often I must lament my cares alone at every dawn. Now there is no one alive with whom I dare to speak my mind openly.

The wanderer understands that, in the absence of a community, his status as an outsider will continually deprive him of both the ability to speak plainly and to have others recognize his potential value. Loss of community also translates into a concern for never again being able to find true camaraderie, as the wanderer must perpetually be a stranger to those around him. Manish Sharma, who attempts to reconcile the optimistic Christian ending of the poem with its

³⁷⁹ George P. Krapp and Elliott Van Kirk Dobbie, eds., "The Wanderer" in *The Exeter Book*, vol. 3 of *Anglo-Saxon Poetic Records* (New York: Columbia University Press, 1939), ll. 8 – 11a. Hereafter abbreviated *Wan*.

earlier elegiac content, believes: “identity cannot be affirmed directly, but must be considered in light of the fact that the heroic world, the necessary correlate of heroic identity, has been extinguished. The ground for the heroic subject, therefore, is no longer the rich plentitude of an oral community, but becomes, on the contrary, the irrevocable *loss* of that community.”³⁸⁰ The struggle to reconcile this longing for acceptance with the reservation and skepticism associated with a stranger represents a serious challenge to the wanderer’s ability to be considered as a trustworthy and prized individual in an unfamiliar society. The poem further expounds on this complicated relationship as the wanderer adds:

ond ic hean þonan

wod wintercearig ofer wapema gebind,
sohte sele dreorig since bryttan,

hwær ic feor oppe neah findan meahte
þone þe in meoduhealle min mine wise,
oppe mec freondleasne frefran wolde,
weman³⁸¹ mid wynnum.

And I, wretched, advanced thence as desolate as winter over the binding of the waves, I sought, with sadness at the loss of the hall, a giver of rings, where I might find the one, far or near, who in the mead-hall might know of my own [lord], or who would comfort

³⁸⁰ Manish Sharma, “Heroic Subject and Cultural Substance in *The Wanderer*,” *Neophilologus* 96 (2012): 611-629.

³⁸¹ Krapp and Dobbie offer the following commentary regarding this line: “The MS. reads unmistakably *weman*, though Wülker says one might read the word either as *weman* or as *wenian*.” The meaning of *wenian*, “to attract or draw,” appeals as a logical variant for this half-line if the wanderer is explaining how he could be lured away from the melancholy existence by the prospect of happiness. Ultimately, the two forms seem to function synonymously, as Krapp and Dobbie suggest by noting they are coupled together by Wulfstan in his homiletic writing (Napier 35). For more discussion, see the commentary in *The Exeter Book*, p. 289.

me, a friendless one, to persuade me with joys.³⁸²

While the wanderer obviously desires to reclaim the physical rewards of the hall, as measured in treasure and companionship of the *comitatus*, his detachment from community logically complicates any such return. As Patrick Cook relates, “one thing distinguishing this poem from other Anglo-Saxon treatments of exile is its portrayal of the fragmentation of the *comitatus* into monadic units of the individual self.”³⁸³ Disintegration of support leads to an increasingly internalized individual, thereby making openness and the trust built upon that quality even more challenging to acquire after the loss of this social foundation. Without the attestation of friends, family, or a living chieftain, the wanderer must endure an uncertain and disbelieving world whose outlook parallels the skepticism of the Danish coastguard before learning of Beowulf’s lineage. Unlike Beowulf, however, the wanderer faces a lack of essential community connections to prove either his identity or intentions to the apprehensive listener.

Wita sceal geþyldig,

<i>ne sceal no to hatheort</i>	<i>ne to hrædwyrde,</i>
<i>ne to wac wiga</i>	<i>ne to wanhydig,</i>
<i>ne to forth ne to fægen,</i>	<i>ne to feohgifre</i>
<i>ne næfre gielpes to georn,</i>	<i>ær he geare cunne.</i>
<i>Beorn sceal gbidan,</i>	<i>þonne he beot spriceð,</i>
<i>oppæt collenferð</i>	<i>cunne gearwe,</i>
<i>hwider hreþra gehygd</i>	<i>hweorfan wille.</i>

³⁸² *Wan.*, ll. 23b – 29a.

³⁸³ Patrick Cook, “*Woriað þa Winsalo*: The Bonds of Exile in ‘The Wanderer,’” *Neophilologus* 80.1 (1996): 127-137.

The wise man should be patient, he should not be too fervent nor too hasty in speech;
he should not be too unyielding a warrior nor too hasty, neither too forward nor too
elated, not too covetous nor ever too eager for fame, before he knows with certainty.
The man should wait, when he speaks a boast, the one bold in spirit, until he knows
entirely whither the intention of the hearts will change.³⁸⁴

As the poem progresses away from the opening lament for lost community, toward an eventual acceptance of the wanderer's fate, the poet again reasserts the struggle to find a place for speech in a world of strangers. Pauline Head suggests that the wanderer successfully overcomes the challenges of identity only by creating a wider community beyond the one originally lost in the opening lines of the poem.³⁸⁵ Yet even as the effort to create a wider sense of association with those people enduring similar suffering is underway, the wanderer again voices dissatisfaction with the disjointed nature of fractured identity and compromised trust. Knowing the true intentions of the heart becomes an unlikely task for any human, especially for an outsider in an unfamiliar community. In spite of the wanderer's questionable reputation and the uncertainty accompanying his status as outsider, the closing advice of the poem reasserts the ability of truth to transcend the difficulties caused by exile and compromised character. As the narrative moves closer toward its resolution, the poet offers this final advice: *Til biþ se þe his treowe gehealdeþ*, 'He who keeps his faith is good'.³⁸⁶ Focusing on personal integrity outside of the narrow confines of a physical community allows the wanderer to face skepticism and uncertainty through an expectation of reliability no longer dependent on the validation of

³⁸⁴ *Wan.*, ll. 65b – 72.

³⁸⁵ Pauline Head, *Representation and Design: Tracing a Hermeneutics of Old English Poetry* (Albany: State University of New York Press, 1997), p. 35.

³⁸⁶ *Wan.*, l. 112.

others. Despite the limitations on straightforward speech and the loss of implicit trust accompanying the separation from community-based identity, “The Wanderer” ultimately describes trust as an idiosyncratic virtue whose value is derived entirely from the potential strength of personal integrity. Although the poem’s concluding message points readers toward the way reputation exists beyond community, this consolation comes only in a metaphysical sense as the community is replaced by a celestial notion of integrity. As a result, the poem deliberately looks beyond community for the broader explanation of how ideal truthfulness transcends such boundaries, so that the reward awaiting the protagonist after this life provides some comfort for his present suffering. Nevertheless, the poet also carefully promotes the perspective that an earthly, skeptical community remains present while the wanderer is alive, and this same community continues to judge an individual’s credibility as entirely dependent on the opinion of others.

Even though the contemplative speech of the wanderer vividly laments the distress caused by a skeptical community refusing to accept an outsider, other literary examples confirm the attitude of cynicism by cautioning against trusting without restraint. Such illustrative narratives advocate for careful examination of the limitations to trustworthiness, especially for strangers without an established place in the community. Likewise, these narratives seem to justify the stigma of mistrust expressed throughout “The Wanderer.” No other literary piece provides more proof for mistrusting the speech of an outcast than the Old Norse “Völundarkviða,” an account of the life, suffering, and revenge of Volund the legendary smith. This poem, found among the mythic tales from the *Poetic Edda*, offers its audience a suitably complex moral landscape in which the forces of suffering and estrangement from community heighten the protagonist’s quest for revenge against the king who exploits and then imposes separation from the support of society on the hero. Unlike the doubt that saturates the

landscape of “The Wanderer,” confidence in the malleability of trust pervades “Völundarkviða” as the hero deliberately manipulates those around him, through cunning and skill at the forge, to fashion a status as an exotic outsider in order to complete a bloody retribution. Unlike “The Wanderer,” where the stranger longs for acceptance among a community of trusting individuals, “Völundarkviða” reveals how the members of a community can fall victim to exploitation when they fail to question the integrity of the outcast.

Unlike the exile of Grettir or the wanderer, Volund’s exclusion from society initially begins as a self-imposed condition. In the opening lines of “Völundarkviða,” Volund belongs to a strong family unit with the support of his two brothers and their supernatural wives.³⁸⁷ When the valkyrie wives return to their former pursuit of battles and Volund’s brothers depart to find them, the smith alone remains behind at his forge. The poet describes this isolation in the lines: *Þá screið Egill at leita Olrúnar. Enn Slagfiðr leitaði Svanhvítar. Enn Völundr sat í Ulfðölom*, ‘Then Egil skated in search of Olfrun, and Slagfið searched for Swanwhite, but Volund remained at the Wolfdales’.³⁸⁸ Unlike his brothers, Volund’s decision to favor waiting over acting, whether motivated by a belief his wife would return or a reluctance to leave his forge, places him at serious risk without the protective support of family. Not long after the departure of his former community isolates him, Volund is attacked by the king of the Swedes, Nidud, who desires to profit from the exceptional talents of this mysterious craftsman.³⁸⁹ After depriving Volund of his

³⁸⁷ Volund and his brothers are married to women identified by the poet as *valkyrior*, ‘valkyries,’ whose *álptar hamir*, ‘swan-skins,’ allow them magically to leave after seven winters to seek battles. See “Völundarkviða” in *Edda, Die Lieder des Codex Regius nebst verwandten Denkmälern*, ed. Gustav Neckel and Hans Kuhn, 5th ed. (Heidelberg: Carl Winter, 1983), ll. 7 – 8. Hereafter abbreviated *Vkv.*

³⁸⁸ *Vkv.*, ll. 14 – 5.

³⁸⁹ Volund has otherworldly characteristics that also seem to exclude him from normal human society. He is called *álfa líóði*, ‘prince of the elves,’ in stanza 10 of the poem, which would also suggest he does not fit into the traditional structure of the community.

wife's ring, his weapons, and even his freedom to leave the forge, Nidud – at the urging of his wife – imprisons his skillful captive in isolation on the isle of Sævarstaðr. Despite the best efforts of the queen to remove the dangerous smith, thereby minimizing potential harm to her family, Volund ironically uses this same status as enigmatic stranger to manipulate the trust of Nidud's children and thereby enact his revenge.

When the poem recounts the journey of the young Swedish princes to Volund's island in search of his treasures, the cunning smith quickly lures them by means of greed and overconfidence to believe his intentions to be honest and benevolent. Volund tells the young princes:

Komið einir tveir, komit annars dags!

ycr læt ec þat gull um gefit verða;

segita meyiom né salpióðom,

manni ongom, at ip mic fyndit.

Come by yourselves, the two of you, and come another day! I will let the gold be given to you two; do not tell the maidens or the hall-servants, or any other man that you two have met me.³⁹⁰

Why the boys decide to follow Volund's request for secrecy is an interesting point of speculation, and their naiveté contrasts sharply with the calculating nature of their suspicious parents. Perhaps the two boys were not present when their mother observed Volund's bared teeth and sparkling eyes, *ámun ormi þeim*, "similar to the serpent".³⁹¹ More likely, their greedy desire to acquire the treasure of the smith overshadows the warning of their mother's cautious

³⁹⁰ Vkv., stanza 22.

³⁹¹ Vkv., stanza 17.

approach to the smith. Whatever the reasons for their decision to trust, the innocent boys are drawn to the forge by a youthful expectation that the outsider will honor his promise to distribute gifts to them. Rather than providing treasure, Volund murders the princes, conceals his action, and crafts jewelry for the royal family from their corpses. The boys' promise of secrecy allows Volund to hide the fate of the boys from Nidud's household, while he simultaneously uses their remains³⁹² to craft jewelry for the very woman mourning her tragic loss.

This same technique of blatant deception under the guise of trusted stranger is employed for a second time by the smith when he pursues further punishment against Nidud's daughter, Bodvild. When Bodvild approaches Volund for assistance repairing a magic ring, he makes additional promises to the jejune princess to shape the course of his revenge, saying: *Ek bæti svá brest á gulli, / at feðr þínom fegri þiccir / oc mæðr þinni miclo betri, oc siálfri þér at sama hófi*, 'I will mend [the ring³⁹³] so that the break in the gold might seem more beautiful to your father, and much better to your mother, and to you the same degree'.³⁹⁴ Volund's speech exploits Bodvild's belief that his intentions are sincere in trying to help her. Prior to this promise, she confides in him, *þoriga ec at segja, nema þér einom*, 'I dare not speak, except to you alone'.³⁹⁵ Here Volund no longer needs to make a plea for secrecy, since Bodvild herself has already ensured the isolation necessary for him to exact his next phase of revenge. Just as he

³⁹² Volund uses various parts of the murdered princes to shape gifts for the royal family. With their skulls, he crafts *scálar*, "bowls," for Nidud; the eyes are transformed by the smith into *iarnasteina*, "gemstones," for the queen; the final gift uses the teeth to craft *brióstringlor*, "broaches," for Bodvild.

³⁹³ Ironically, this is the same ring that formerly belonged to Swanwhite, Volund's valkyrie wife. Using an item with such personal significance empowers Volund to overcome the humiliation of having this object confiscated on the night he was captured by Nidud's warriors.

³⁹⁴ *Vkv.*, stanza 27.

³⁹⁵ *Vkv.*, stanza 26.

appealed to the greed of the princes, Volund baits his trap with pride as he promises Bodvild a secret knowledge that will allow her to surpass both her father and mother in discernment about the quality of the ring, since only she will know exactly where the flaw will be. The vanity of such secretive wisdom makes Volund's enticement more appealing, and whatever caution Bodvild feels about trusting the mysterious smith is overwhelmed. The rape of the princess completes Volund's revenge, while concurrently forcing the smith directly into the lineage of Nidud's family and removing his status as outsider in the community.³⁹⁶ Bodvild's child subsequently possesses symbolic significance, representing Volund's ultimate triumph over Nidud since the murder of the two royal heirs leaves the king no alternatives for the survival of his family. In the poem's final stanza, Bodvild candidly reveals the painful lesson she has learned about not being excessively trusting. As she says: "*Satt er þat, Níðuðr, er sagði þér: / sátom við Völundr saman í hólmi, / eina ögurstund, æva skyldi,*" "That is true, Nidud, what he said to you: We, Volund and I, remained together on the island only for one unfortunate hour, it never should have happened".³⁹⁷ If there is accusation in the last lines of her reply, that emotional response is surely directed toward her father whose personal failure to protect the community against the potentially dangerous outcast creates this misfortune. Indeed, Nidud's insatiable desire to exploit the work of the smith seems to blind him to the fact that Volund possesses formidable cunning and skill. Ursula Dronke notes that, the "art of the smith is a mystery that invests him with menace and awe. He is in command of the supernatural forces of fire and metal: a nature distinct from other men."³⁹⁸ Under the circumstances, Nidud should have been

³⁹⁶ It is possible that the ring Bodvild brings to Volund tints the sexual encounter between these characters with the undertone of the marriage. Volund himself seems to confirm the connotation of marriage by calling Bodvild his *qván*, wife, when explaining his revenge to the king. For more, see Robert Cox, "Snake rings in *Deor* and *Völundarkviða*," *Leeds Studies in English* 22 (1991): 1-20.

³⁹⁷ *Vkv.*, stanza 41.

³⁹⁸ Ursula Dronke, ed and trans., *The Poetic Edda* (Oxford: The Clarendon Press, 1969), 2:260.

aware of Volund's ability to twist language and emotion as easily as he shapes metal into spectacular creations of his own design. The poem communicates clearly a cautionary lesson about the outsider's threat to the community, exploiting its most innocent members, and the failure of the one individual who should act to prevent that abuse. Volund's lack of credibility should never have been in doubt, but Nidud's own avarice pushed him to bring a stranger into his territory without the appropriate societal warnings.

In conclusion, the powerful role community plays in determining a speaker's credibility makes it the most significant aspect of how sworn language can be assessed in the literary world. The ability of the literary hero's acquaintances, friends, and family to join the power of identity to the value of reputation, especially for honesty, complements the task of witnesses to invest credence to swearing within the law. It is that same community, however, that bears the responsibility of determining negative consequences, as when facing an inability safely to determine reputation or when dishonesty is proven. Those who deliberately or unintentionally fall outside the boundaries of the community, like outlaws, wanderers, and exiles, pose a serious threat to social order if their actions undermine trust and leave little recourse for punishment should they succeed in deception.³⁹⁹ In light of such concerns, it is not surprising that a community moves swiftly to make the testing of honesty a factor tightly connected to the quality of an individual's reputation or that dishonesty receives a similar, if not greater, emphasis in many of the literary narratives.

One concise, yet effective example of how influential the judgment of society is on a

³⁹⁹ The connection back to law is again relevant here, as many legal provisions permit violence with impunity against socially deviant outsiders, like vagrants, or treat them with extreme caution. One of the most violent examples is in chapter 254 of *Grágás*, which allows for castration of vagrants for intercourse cases without any legal penalty, *þóat þeir sæ örkumbl af eða bana*, "even if they get lasting injury or death from it."

person's reputation can be seen in *Hallfreðar Saga*, where the poet-hero must wrestle with the damaging fallout for his dishonorable behavior. Kolfinna, Hallfred's sweetheart, is engaged to another man, yet Hallfred refuses to honor their betrothal. When Hallfred loses his bid to steal Kolfinna away, he finds himself quickly fettered and facing dire consequences for his ignoble actions. Hallfred's father is only able to make peace between the two young men by offering his personal oath that Hallfred will no longer pursue Kolfinna. Hallfred feels trapped by his father's oath as, no matter what choice he makes, society will assign blame. Initially, he is concerned that if he holds to the truce, then he will have been humbled by Kolfinna's fiancé and will lose his beloved. On the other hand, if Hallfred rejects his father's agreement to end the fight, then he will damage his father's reputation. Hallfred soon comes to the realization, however, that there is more at stake even than his father's reputation. *Hallfreðr segir: "Hverr mun mér þá trúr, ef faðrinn bregzk?"*⁴⁰⁰ 'Hallfred asks: "Who will be true to me then, if my father breaks faith?"' In this moment, it becomes clear to Hallfred that the loss of confidence in his father's oaths among the community will ultimately result in a concomitant loss of confidence in his own oaths. As Hallfred's musings on his situation prove, society will be quick to judge either choice he makes as proof of deficiency; but, it is only in the negating of his father's oath that he will create a situation in which the community will carry that criticism into future generations. To diffuse the tension and keep the promise intact, Hallfred is ordered by his father to go abroad into a self-imposed exile. The decision to make this a voluntary exile, rather than taking actions that would require exile, allows Hallfred to retain the general goodwill of his society and minimize the damage to his reputation and to his family's reputation. Ultimately, it is the potential for societal

⁴⁰⁰ Einar Sveinsson, ed., *Hallfreðar Saga* in *Vatnsdæla Saga*, vol. 8 of *ÍF* (Reykjavík: Íslenska Fornritafélag, 1939), p. 149.

condemnation that holds Hallfred to his unwilling pledge and undoubtedly prevents an outbreak of local violence, thus justifying the role of society as an external arbiter of integrity.

Swearing as the Literary Motif of “Testing”

If oath-taking derives legitimacy from the ability of the community to unite known identity and good reputation into a sense of credibility, the successive effects of this action shape the reliability of the participants in more significant ways, either positively or negatively. Narratives exploring such ramifications allow audiences to observe a character’s growth while dealing with the challenges presented by swearing. Indeed, such literary examples often explore those very scenarios when swearing becomes exceedingly complicated; what initially appears as a black or white moral choice frequently transforms into an ethically ambiguous decision, where characters must struggle against the awareness of how community judgments will attempt to punish deceitfulness and reward honesty. As a result, the consequences produced from a moment of swearing are further illuminated by the risks and rewards discussed in many literary texts. Literary explorations delving into such tests of credibility, therefore, challenge the notion that honesty is a zero-sum game, where only one side is morally right and the other is forced to be wrong.⁴⁰¹ Thus, it is worth considering more closely how the interactions between the oath-taker and community, as depicted within the literature, are part of a larger process of societal assessment, in which integrity is enhanced for those participants determined to be making honorable choices and diminished for those discovered to be making dishonorable ones.

Because swearing provides a precise means for the appraisal of personal integrity by the community, many literary texts justifiably employ this motif as a means of harmonizing personal

⁴⁰¹ See James Marshall, “Lawyers, Truth, and the Zero-sum Game,” *Notre Dame Law Review* 47 (1971): 919-26.

interests with the wider principles that bind the community together. One of the most important classifications of early Icelandic and Anglo-Saxon literature in which authors engage with honesty as a serious theme is Old English and Old Norse gnomic poetry. Lynn L. Remly asserts that gnomic verses offer a “‘universal form of literature,’ which characteristically ‘celebrates phenomena of the natural world’ or ‘promulgates principles of law and morality’” in clear ways.⁴⁰² Norse and Anglo-Saxon audiences, therefore, would share an appreciation for the caution offered by these admonitory poems as they outline the proper function of the universe or the appropriate behavior required for any given situation. Indeed, many of these wisdom poems espouse special caution for the treatment of swearing that echoes those same concerns found within legal texts guarding against abuses. Trust, as Larrington notes, is a universal theme shared equally between Old Norse and Old English gnomic poems seeking to explain the individual’s role within both the community and the wider world.⁴⁰³ In the quintessential wisdom poem *Hávamál*, although the poet does not directly mention oath-taking, the verses do offer a glimpse into how language constructs credibility in the Germanic world. The poem explains:

Vin sínom skal maðr vinr vera
og gjalda gjof við gjof;
hlátr við hlátri scyli hölðar taca,
*en lausung við lygi.*⁴⁰⁴

⁴⁰² Lynn L. Remly, “The Anglo-Saxon Gnomes as Sacred Poetry,” *Folklore* 82.2 (1971): 147. Remly establishes her definition of gnomic writing based largely on the work of Blanche C. Williams, whose own language is quoted within Remly’s text.

⁴⁰³ Larrington, *A Store of Common Sense*, p. 220.

⁴⁰⁴ *Hávamál*, stanza 42.

‘A man should be a friend to his friends
and repay gifts with gifts;
a man should give laughter for laughter
and repay treachery with lies.’

This stanza demonstrates the poet’s effort to strike at the very center of the controversy surrounding oath-taking as especially vulnerable to manipulation by personal interests. When reputation and honesty become so malleable as to require falseness in response to deception, then all that remains is a personal sense of integrity that must be carefully protected against such a flawed system. Although *Hávamál* may initially appear to advocate dishonesty, this complex response can only be judged reasonable as an answer for an earlier act of treachery.

It is not surprising, therefore, that the Old English gnomic verses from “Maxims II,” found in MS. Cotton Tiberius B.i., also echo this cautious view about honesty’s fragile foundation within the community. Between the behavior of natural phenomenon and enumeration of emblematic traits, the poem affirms: *Soð bið switolost*,⁴⁰⁵ ‘truth is the most deceptive.’ Precisely what the poet might intend with this line is the source of much scholarly debate, as disagreement over the adjective *switolost* makes this expression somewhat troubling. Henry Sweet favors reading this superlative form as a derivation from the adjective *sweotol*, meaning “certain or evident,”⁴⁰⁶ thereby producing a positive reading of the nature of honesty. Yet such an interpretation struggles against *Hávamál* and other texts that would suggest that truth must be carefully guarded and that integrity of reputation demands close protection. Tom Shippey, among other scholars, suggests an alternative reading of *switolost* that connects to *swecol*,

⁴⁰⁵ Elliott Van Kirk Dobbie, ed., “Maxims II,” in *The Anglo-Saxon Minor Poems*, vol. 6 of *Anglo-Saxon Poetic Records* (New York: Columbia University Press, 1942), p. 56.

⁴⁰⁶ See Henry Sweet, *Sweet’s Anglo-Saxon Reader*, 14th ed. (Oxford: The Clarendon Press, 1962), p. 160.

“deceitful,”⁴⁰⁷ to produce a more pessimistic perspective on how truth should be assessed within the community. If dishonesty is a realistic danger that threatens to undermine reputation, then the poets of “Maxims II” and *Hávamál* both understand the genuine danger in naively approaching language with an expectation it will always function appropriately. By advocating a cautious approach and a suspicious assessment of each individual’s claim to honesty, the authors of such gnomic texts recognize the challenge of oath-taking that requires an individual to risk his own carefully guarded reputation against the potential manipulation of an opponent’s dishonest language.

Within the lines of *Beowulf*, the cautionary approach to oath-taking espoused in the gnomic literature also plays a major role in assisting the efforts of the reader to determine the worth of the characters within the narrative. Those men who uphold the requirements of their verbal agreements, like Beowulf, prevail over the challenges to integrity in the way they seek to balance words and deeds.⁴⁰⁸ In exploring the boundaries and ramifications of this action, however, the poet also exposes moments where the audience must interpret how swearing influences the larger action of the narrative for better or for worse. Indeed, one of the earliest instances of swearing in the poem occurs when Hrothgar recalls the events that drove Beowulf’s father, Ecgtheow, to seek refuge among the Danes. In this illustrative example, the context of diplomatic negotiations seems to provide an interesting background for interpreting this exchange. Ecgtheow fled from the vengeance of the Wylfings because *wearþ he Heapolafe to handbona / mid Wilfingum*, ‘he became the slayer by his own hands of Heatholaf among the

⁴⁰⁷ Tom Shippey, *Poems of Wisdom and Learning in Old English* (Cambridge: D. S. Brewer, 1976), p. 77.

⁴⁰⁸ See Robert Kaske, “*Sapientia et Fortitudo* as Controlling Theme of *Beowulf*,” *Studies in Philology* 55.3 (July 1958): 423 - 56.

Wylfings'.⁴⁰⁹ Hrothgar presents a solution to this potentially deadly feud by both harboring Beowulf's father and brokering an agreement to end the fighting that might result. He relates to Beowulf: *Siððan þa fæhðe feo þingode; / send ic Wylfigum ofer wæteres hrycg / eald madmas; he me aþas swor,* 'Afterwards I settled the feud with money; sent old treasures to the Wylfings over the back of the water; he swore oaths to me'.⁴¹⁰ The ambiguity around the identity referenced by the masculine pronoun *he* makes the consequences of this particular oath difficult to determine. One logical possibility reads Ecgtheow as the subject of this moment of swearing, since he is unquestionably indebted to Hrothgar for paying the wergild to end the feud. In this sense, as Kemp Malone suggests, the reciprocal nature of such giving might require Beowulf's father to bind himself contractually to the Danish king as a way of repayment for brokering the peace deal with the Wylfings.⁴¹¹ Despite this reasonable interpretation, it is possible that the oaths are not only offered by Ecgtheow in this context but also by Hrothgar. Because Hrothgar never elaborates beyond this reference to provide the particulars of the oaths or the parties who speak them, this ambiguity allows for other potential interpretations for who speaks and what is sworn.

The large body of modern English *Beowulf* translations offers very little help to clarify the potential ambiguity present in Hrothgar's statement about oaths. Many translators attempt to turn aside any uncertainty in the passage through an explanatory footnote, offering some hope of clarity for this unspecified line. A majority of these translators, however, construe the oaths to be sworn by Ecgtheow, thereby placing him in the service of Hrothgar as a retainer. E.

⁴⁰⁹ *Beo.*, ll. 460-1a.

⁴¹⁰ *Beo.*, ll. 470-2.

⁴¹¹ Kemp Malone, "Ecgtheow," *Studies in Heroic Legend and in Current Speech* (Copenhagen: Rosenkilde and Bagger, 1959), p. 114.

Talbot Donaldson's critical prose translation footnotes the word "oaths" with an explanation that the individual offering them is "Ecgtheow, whose feud with the Wylfings Hrothgar had settled."⁴¹² In a similar manner, Roy Liuzza's translation offers an even longer footnote to justify the explanation of how this oath might necessitate Beowulf's arrival among the Danes. His annotation reads:

Hrothgar pays the wergild for the man Ecgtheow killed, and Ecgtheow swears an oath of loyalty and support. It is this oath, passed on to the next generation, that Beowulf is fulfilling (at least this is Hrothgar's public sentiment; his thoughts in the privacy of his council are somewhat different).⁴¹³

To avoid the complexity of this situation entirely, Kevin Crossley-Holland's rendition of the passage liberally removes any trace of the pronoun and forces the issue by stating: "Ecgtheow swore oaths to me."⁴¹⁴ Despite the desire of many translators to turn this moment of vague swearing into some sort of hereditary test of Beowulf's desire to fulfill his father's obligations, the uncertainty around what type of oaths Hrothgar means and why they might be offered generates more questions about how readers should interpret the relationship formed between the Danish king and his Geatish visitors.

Reading the ambiguity of Hrothgar's statement as an obligation necessitating Beowulf's arrival in Denmark complicates the heroic nature of the upcoming fight against Grendel. If the poet intends us to see this entire quest as merely an effort to reimburse Hrothgar, it devalues

⁴¹² E. Talbot Donaldson, *Beowulf: A Prose Translation*, 2nd ed. (New York: W.W. Norton & Co., 2002), p. 10.

⁴¹³ Roy Liuzza, *Beowulf: A New Verse Translation* (Ontario: Broadview, 2000), p. 67.

⁴¹⁴ Kevin Crossley-Holland, *Beowulf in The Anglo-Saxon World* (Rochester, NY: Boydell & Brewer, 2002), p. 81.

what Beowulf hopes to accomplish by constraining the deed as an act of obligation, rather than an undertaking of heroism. Indeed, some support from the text itself argues against an interpretation of Ecgtheow's swearing as a compulsion of service, a perspective that gathers further justification as Beowulf wins more honor after the defeat of Grendel and his mother. Prior to accepting the quest to destroy the monstrous Grendel, for example, Beowulf seems to have formed limited connections with Hrothgar for himself. When Beowulf is finally announced before the king by the Danish herald, Hrothgar only offers the reply that *lc hine cuðe cnihtwesende*, 'I knew him as a young boy'.⁴¹⁵ If the oaths mentioned within the context of Ecgtheow's effort to seek refuge among the Danes are indeed creating a responsibility of service to Hrothgar, then the young Beowulf would surely have been raised in Heorot until that obligation is realized. Moreover, when Beowulf introduces himself before Hrothgar, he would not need to say: *lc eom Higelaces / mæg ond magoðegn*, 'I am the blood-relative and young retainer of Hygelac'.⁴¹⁶ Acknowledging a previous relationship would certainly have expedited the proof of sincere intentions for Beowulf's visit when his band of warriors is questioned both by the coastguard and Wulfgar. Thus, while the interpretation of this enigmatic reference to oath-taking might point to the necessity of Beowulf acting to protect Heorot as repayment of paternal debt, it seems more likely that an alternative explanation of these oaths provides a better reading of their function within the wider context of the narrative.

Exploring Ecgtheow's oath as something other than a contract of fidelity liberates Beowulf to fight against Grendel for his own motivations, rather than only striving to meet his

⁴¹⁵ *Beo.*, l. 372.

⁴¹⁶ *Beo.*, ll. 407b-8a.

father's obligation to a powerful friend.⁴¹⁷ Considering the oath of Beowulf's father as simply a routine component in the traditional process of feud resolution⁴¹⁸ also connects this moment in the narrative with those other texts where swearing tests the resolve of a character to hold true to his word. One such oath-taking exchange occurs in *Grettis saga Ásmundarsonar* shortly after Grettir has been declared an outlaw by Thorir, a powerful individual who uses his influence to pursue vengeance for the killing of his sons; *at þetta væri meir gort af kappi en eptir logum*, 'in this matter he did more for zeal than according to the law'.⁴¹⁹ Much like Ecgtheow's flight from the retaliation of the Wylfings, Grettir must now evade an enemy whose desire for retribution forces a prominent member of society to become an outsider. This displacement of the warrior heightens his danger to the community by severing any ties constraining the destructive power of his violence. Facing the prospect of an unjust term of outlawry, Grettir begins dealing harshly with the people of Isafjord by taking food and robbing their farms until his behavior provokes the anger of the entire community. Janice Hawes views Grettir's "unheroic sheep-stealing" as an action that not only diminishes his social status, but also transforms him into an outsider "similar to Grendel's status" or the supernatural Glam, whose predatory actions also make them antagonistic to the communities around them.⁴²⁰ In the beginning of Chapter 52, the *bændr*,

⁴¹⁷ The proof that Beowulf sees his role in fighting Grendel as more than a simple act of reciprocity is found in his final speech before Hrothgar vacates the hall in the evening. The hero declares, in ll. 636b – 7a: *lc gefremman sceal eorlic ellen*, 'I shall accomplish a deed of manly strength,' which links nicely with his subsequent boasting that he will face Grendel on equal terms without weapons. This speech attests to Beowulf's desire to acquire renown through this battle.

⁴¹⁸ Oath-taking is often involved in the process of feud resolution within the sagas. For more on this process, see Jesse L. Byock, *Feud in the Icelandic Saga* (1982; reprint, Los Angeles: University of California Press, 1993), pp 99 – 111.

⁴¹⁹ *Grett.*, p. 147.

⁴²⁰ Janice Hawes, "Monstrosity of Heroism: Grettir Ásmundarson as an Outsider," *Scandinavian Studies* 80.1 (Spring 2008): p. 31.

free-holding farmers of the district, waylay Grettir, overpower him in a fierce struggle, and bind him securely. While still imprisoned and facing execution, Grettir is rescued by Thorbjorg, the wife of one of the leading men in the district, after she observes his condition and adeptly intervenes to establish a peaceful resolution between Grettir and the farmers. The saga records her capable handling of the volatile situation between the enraged hero and the wary farmers:

Hon svarar: "Vera má, at Grettir hafi sakar til þess, en ofráð mun þat verða yðr Ísfirðingum, at taka Gretti af lífi, því at hann er maðr frægr ok stórættaðr, þó at hann sé eigi gæfumaðr. Eða hvat villtu nú vinna til lífs þér, Grettir, ef ek gef þér líf?" Hann svarar: "Hvat mælir þu til?" "Þú skalt vinna eið," sagði hon, "at gera engar óspekðir hér um Ísafjorð; engum skaltu hefna, þeim sem í atfor hafa verit at taka þik." Grettir kvað hana ráða skyldu.

She answers: "It might be that Grettir deserves this, but it will be too great a task for you men of Isafjorð to take Grettir's life, because he is a famous and high-born man, although he is not a fortunate man. What will you do now for your life, Grettir, if I grant life to you? He answers: "What do you stipulate?" "You must swear an oath," she said, "to cause no trouble here in Isafjord. You will not take vengeance on any of those who attacked and captured you." Grettir declared she should decide the terms.⁴²¹

In order to conclude Grettir's struggle against the farmers without resorting to additional violence, Thorbjorg requires an oath from the hero to act as the guarantor for his release. In negotiating this bloodless resolution, Thorbjorg demonstrates her prudence, mercy, and intelligence to her husband Vermund, who initially views sparing Grettir as a mistake. Brokering this peace, however, allows Thorbjorg to prevent Grettir from expanding the damage already

⁴²¹ *Grett.*, p. 169.

done to the community in requital against the farmers who ambush and roughly treat him. Pencak, as he examines legal injustice unfolding within *Grettis saga*, characterizes Thorbjorg as “the first person in Iceland to give Grettir real help.”⁴²² He further asserts: “Thorbjorg is the first person to place Grettir’s immediate crimes in the context of his larger career and reputation. She doubts his guilt, and reasons beyond the mere fact of his outlawry to the truth that the Althing isn’t working well, and that Grettir’s relatives might come after her.”⁴²³ Here too another connection can be made to the situation of Beowulf’s father, whose worth is also recognized by Hrothgar despite the potential feud he brings into the community. Since Ecgtheow’s companions cannot provide him with the protection he needs, like Grettir, this protection comes from outside of the usual sources. Both Thorbjorg and Hrothgar transform the expected outcome of their respective situations, one operating as an intelligent partner for her husband by safeguarding his interests in the district and the other as a foreign king intervening in the feud of an outsider. Thorbjorg, like Hrothgar, also evaluates the fight as a nonbiased arbitrator who uses the authority of her position to resolve things efficiently. Despite experiencing a shameful defeat, Grettir actually honors his words to Thorbjorg without punishing any of the farmers who overpower him. The establishment of this truce shifts the plot of the saga as Grettir looks elsewhere for refuge during his flight.

Not every representation of oath-taking offers the same successful resolution for violence as the positive outcomes connected to Grettir and Ecgtheow. Indeed, examples abound in both Anglo-Saxon and Icelandic literature to highlight the potential disasters resulting from the failure of language to conclude violence successfully. The gap between credibility and

⁴²² Pencak, *The Conflict of Law and Justice in the Icelandic Sagas*, p. 45.

⁴²³ *Ibid.*, p. 45.

mistrust is exploited by the *Beowulf*-poet when the narrative pauses to relate the tale told in Heorot during the feast to celebrate Beowulf's victory over Grendel. This digression about the bloody feud raging between the Danes and Frisians presents one of the clearest indications for how troubling the test of an individual's honesty can be when honesty fails. As the *scop* recounts the violent aftermath of the battle between the Danes and Frisians, he explains how each side resumes a tenuous co-existence by validating this reconciliation through oath-taking.

The narrative explains:

*Ða hie getruwedon on twa healfa
fæste frioðuwære Fin Hengeste
elne unflitme aðum benemde,
þæt he þa wealafe weotena dome
arum heolde, þæt ðær ænig mon
wordum ne worcum wære ne bræce,
ne þurh inwitsearo æfre gemænden
ðeah hie hira beaggyfan banan folgedon
ðeodenlease, þa him swa geþearfod wæs;*

Then they confirmed the strong compact of peace on two sides. Finn declared to Hengest with undisputed oaths, with valor, that he would rule the survivors with honors according to the judgment of the councilors, so that no man should break the agreement by either words or deeds, or complain through enmity, though they followed the killer of their ring-giver, lord-less, when necessity was thus imposed on them.⁴²⁴

⁴²⁴ *Beo.*, ll. 1095 – 1103.

These oaths do not attempt to make Finn and Hengest members of the same community; instead, they draw additional attention to differences between the two groups by forcing them into an uneasy peace, an arrangement made even more convoluted by the monetary compensation exacted from the Frisians in order to conclude the battle. What truly complicates the oath between Frisians and Danes, however, is the provision expressly preventing jealous thoughts between these former enemies. The powerful temptation to remember the former hostility is not preventable through words alone, especially since this single agreement has application to a large group of warriors only covered by the oath of their leaders. Unlike Ecgtheow, who successfully brokers peace through his oath and the force of Hrothgar's influence, the Danish warriors do not hold to their agreement with Finn for longer than the length of their winter together. The collapse of this oath leads us to wonder whether blame for its failure can be placed on Hengest, who seems unable to prevent violence once the sword is placed in his lap. Here the test of the oath is measured in the ability of the leader to control the more aggressive impulses of his warriors, and both Finn and Hengest fail to use promises effectively to enact a real or lasting peace.⁴²⁵ Thus, despite any initially honest intentions for these oaths from both rulers, the collapse comes from the inability of promises to restrain the powerful emotional response of vengeance that eventually overrides these verbal bonds.

If the oath-taking process from the Finnsburg episode is one of the most noticeable demonstrations of the collapse of sworn language in the context of an audience's attempt to

⁴²⁵ The nuance of their swearing is that neither leader makes the oath with the intention of breaking it. Indeed, neither side escapes the fight unharmed, and peace seems preferable to both since continued fighting would only further devastate both Danes and Frisians. Where problems arise for Finn and Hengest, however, is that they are trying to regulate the emotions of their followers through their personal respective oaths.

assay the personal integrity of a character,⁴²⁶ similar moments of testing can be found throughout the narratives of the *Íslendingasögur*. Indeed, many sagas focusing on the exploits of poets and heroes open with betrothal scenes that place the protagonists in similar moments that test the binding quality of the protagonists' vows. Given the extreme importance of betrothal arrangements in the world of the sagas, finding these ritualized procedures with the endorsement of an oath to validate such transactions is not unexpected.⁴²⁷ Under these circumstances, however, the true appraisal of a speaker's integrity occurs when engagements are extended at the request of the protagonist, who often revisits the terms of the original agreement and provides a subsequent oath to reflect these changes. This exact situation arises in *Brennu-Njáls saga*, when the formidable Hrut extends his engagement to Mord's daughter, Unn, by three additional years while he is abroad in Norway to pursue an inheritance claim. After consulting with his future father-in-law, Hrut and Mord *breyttu þeir máldaganum*, "break the agreement," to signify formally the new arrangement superseding their previous contract.⁴²⁸ While away from Iceland, Hrut falls victim to the political pitfalls of the Norwegian court, becoming the lover of Queen Gunnhild as a way to further his inheritance claim and gain recognition. Hrut's relationship with Gunnhild, however, forces him to neglect the essence of his engagement to Unn. Although he becomes the queen's lover while technically still an unmarried man, readers now have cause to question Hrut's integrity as he further conceals his engagement from Gunnhild. When he does eventually depart from Norway to uphold the terms

⁴²⁶ The audience here is two-fold: not only are modern readers interpreting the actions of Finn and Hengest against their expectations of what acceptable heroic behavior should be, but the Danes and Geats in Heorot, who listen to the poet recite the lay, must also consider this interlude in a similar way.

⁴²⁷ For more on the ritual of betrothal, see Jana K. Schulman, "Make Me a Match: Motifs of Betrothal in the Sagas of the Icelanders," *Scandinavian Studies* 69.3 (1997): 296 – 321.

⁴²⁸ *Njála*, p. 10.

of his three-year betrothal, Gunnhild pressures Hrut to reveal the reason for his return to Iceland. While Hrut does not technically lie about having a wife in Iceland, he deliberately omits telling the queen that a fiancée is waiting for him. The reluctance Hrut has to disclose his whole story, as well as his momentary disregard of the attachment outlined by his betrothal, is the first sign that his integrity is not entirely faultless.⁴²⁹ The success of Hrut's marriage to Unn is, thereby, jeopardized by the queen long before she places him under a curse as punishment for not disclosing this prior obligation.

The challenge to integrity presented by an extended engagement also dominates the initial chapters of *Gunnlaugs saga ormstungu*; the poet-hero's betrothal to Helga the Fair takes place under the noted concern that a desire to travel may prevent the fulfillment of any agreement between Illugi and Thorkel, the parents of the betrothed couple. Indeed, this concern explains why Thorkel stipulates so carefully: "*þá skal Helga vera heitkona Gunnlaugs en eigi festarkona ok bíða þrjá vetur. En Gunnlaugr skal fara utan ok skapa sig eftir góðra manna siðum en eg skal laus allra mála ef hann kemur ei svo út eða mér virðisk eigi skapferði hans,*"⁴³⁰ 'then Helga shall be promised to Gunnlaug but not betrothed and she will wait for three years. And Gunnlaug should go abroad and model himself after the practice of good men and I will be free from all matters if he does not come back as required or his temperament is not pleasing to me.' Indeed, Gunnlaug fails to uphold his agreement with Thorkel, and the engagement to Helga is broken by the poet-hero's rival, Hrafn, who has promised to take revenge on Gunnlaug. In this respect, Gunnlaug faces an even greater test of his character than Hrut in the challenge

⁴²⁹ The defects in Hrut's character (impulsive behavior specifically) surface again when Unn divorces him; rather than absorbing the loss of the dowry with respect for being legally outmaneuvered, he brashly challenges Mord to a duel for the money, disregarding the judgment in this case.

⁴³⁰ Sigurður Nordal and Guðni Jónsson, eds. *Gunnlaugs saga ormstungu* in *Borgirðinga sögur*, vol. 3 of *ÍF* (1938; reprint Reykjavík: Íslenska Fornritafélag, 2001), pp. 67 – 8.

to uphold his word. Unlike Hrut's self-inflicted problems with honest betrothal, Gunnlaug faces an opponent who actively attempts to subvert his efforts to meet the terms of the engagement. The challenge to the protagonist's integrity is further magnified for Gunnlaug, as he returns to Iceland too late to prevent the collapse of his betrothal and the marriage of Helga to Hrafn. *Gunnlaugs saga* unfolds as the eponymous hero continues to lament his lost love, an obsession that eventually costs him his life in a duel with Hrafn.

This motif of betrothal providing tests of a hero's integrity also appears in two other sagas, *Bjarnar saga Hítðælakappa* and *Kormáks saga*, which highlight the breakdown of the agreements as the protagonists fail to uphold their pledges. In *Bjarnar saga*, Bjorn fails to fulfill the terms of his engagement to Oddny before she is married to another suitor. The potential damage to Bjorn's reputation for honesty, however, is mitigated by the fact that his romantic rival for Oddny actively manipulates this situation to destroy Bjorn's successful return to Iceland for the marriage. As Theodore Andersen notes, Thord adds the falsified detail that Bjorn has made him heir to his betrothal to Oddny in order to pressure her relatives to compromise on the terms of the engagement before the hero can return.⁴³¹ Although the failure of Bjorn's verbal agreement in the opening of the saga foreshadows the struggles that will define him throughout the rest of the narrative, audiences can have some sympathy for his position as a victim in this collapse. In a similar way, Kormak too is the victim of forces outside of his control that subvert his efforts to discharge the agreement of his betrothal. Unlike Bjorn, who suffers only from a rival's dishonest assurances to the bride's family, Kormak faces a stronger opposition that deliberately keeps him away from his fiancée using supernatural means. *Þórveig seiddi til þess at þau skyldu eigi njótast mega*, 'Thorveig worked a spell on him so that they might not be able

⁴³¹ Theodore M. Andersson, *The Icelandic Family Sagas: An Analytic Reading* (Cambridge, MA: Harvard University Press, 1967), p. 135.

to enjoy one another.⁴³² Being denied a happy marriage due to the manipulations of enchantment makes Kormak a much more sympathetic character for the damage done to his reputation by the broken betrothal. While the marriage of his former fiancée to a strong romantic rival completes the traditional love triangle that links *Kormáks saga* with *Bjarnar saga* and *Gunnlaugs saga*, the unwarranted criticism that Kormak receives because of his bewitched state makes his situation slightly less disparaging. Nevertheless, the power of oath-based agreements to affect a hero's reputation is derived, in the end, from the way Old Norse society tests personal integrity against societal norms. This is amply demonstrated in these three saga examples.

In conclusion, the motif of testing throughout the literary sources of Anglo-Saxon England and medieval Iceland allows for some interesting interplay between the power of sworn language and the role of the community in evaluating the effects of such transactions. The presumption of how credibility improves when the hero's speech is successful counterbalances the acceptance that failure by the protagonist to live up to his word will be met with an equally decisive loss of reliability in his trustworthiness among his peers. The mixed results of potentially improving or tarnishing social standing make oath-taking both a force for benefit and a threat to reputation, as the gnomic literature of both cultures demonstrates. These wisdom poems express clearly, between establishment of cosmic and social orders, that trust remains an elusively rigorous characteristic that can be useful as often as it can be destructive. The many narrative examples, wherein the hero is closely assessed for how well his deeds match his promises, reinforce the notion that oath-taking as a literary motif allows for testing of the

⁴³² Einar Sveinsson, ed., *Kormáks saga* in *Vatnsdæla saga*, vol. 8 of *ÍF* (1938; reprint Reykjavík: Íslenska Fornritafélag, 2001), p. 54.

characters against an idealized expectation of how honesty should function. Strong-willed individuals with reputations for well-developed integrity, like Hrothgar, Ecgtheow, and Beowulf, carefully harmonize their speech with their behaviors to prove their social importance as dependable and authentic individuals. On the other hand, an equally compelling collection of examples demonstrates that some individuals are not capable, like Hengest, Finn, and Hrut of preventing the collapse of what has been sworn and the inability of language to guarantee action. Here we can see how detrimental failure can become when the reputations of heroic warriors, whose strength makes them seem admirable, are not sufficient to counteract the unpredictable nature of human decision-making. In the emergence of a third group of heroes, consisting of Bjorn, Gunnlaug, and Kormak, we see how the incredible complexity involved in the execution of the oaths taken occasionally mitigates the disastrous results of broken promises. The mixture of success and failure that accompanies the employment of swearing as a motif of testing would suggest, therefore, that society faces a genuine exigency for careful monitoring of the custom of swearing. While the reputations of heroes rise and fall based on the assessment of their ability to uphold their word or succumb to the manipulation of those forces tempting the breach of trust, it is clear that oath-taking in literary venues allows for the nuanced exploration of how precisely proper behavior should be encouraged and problematic abuses should be punished.

Swearing as the Motif of "Deception"

While many literary examples of oath-swearing offer descriptions of how an individual's behavior and integrity are tested by the difficulties of such exchanges, those moments when the system fails to ensure honesty are the most significant ones. Any exchange of oath-taking is

dependent on social validation and assessment of character, so Anglo-Saxon and Icelandic writers are also naturally drawn to illustrating tensions created within this system, as when one side might be forced to contend with the social boundaries of appropriateness and honesty. Such examples include not only those obvious cases where falsehoods deliberately undermine the process of oath-taking, but also those instances when deception entraps the parties inside larger moral dilemmas that force truly difficult choices between honesty and duplicity.

Cases involving clear treachery are easy to identify, and they present in straightforward terms the consequences of manipulation and deceit. One such example is the poem “The Battle of Maldon,” which consists of 325 lines of verse describing the fatal encounter between the English Earl Byrhtnoth and a band of Viking warriors. The tragedy of the English loss is compounded by the fact that broken promises seem responsible for the collapse of Byrhtnoth’s initial military success and for the failure of his soldiers to stay together after the death of their earl. In the first instance, the Viking army’s use of treachery to accomplish its goals corresponds to the expectedly deceitful nature of an invading force of pirates. The English forces are most likely aware of the many accounts of the duplicity of these pirates, having previously fallen victim to the Viking habit of violating peace treaties.⁴³³ Indeed, when the Viking messenger addresses the English with an offer of peace that claims *wið þam golde grið fæstnian*, ‘with that

⁴³³ The Anglo-Saxon Chronicle, MS. F, includes a typical expression of this swearing process. The chronicler records for the year 876: *Her Rodla ðurhferde Normandi mid his here, ond he rixade fifti wintra; ond on þysan ylcan geare ðare Dena here on Englalande Ælfræde cinge aðas sworan uppan ðan haligen beage, þe ær nanre ðeode don noldon, ond eac gislas sealdan þa þe on þan here wurðost wæran to ðan cinge, þæt hi woldon hrædllice of his rice faran, ond hi nihtes þæt tobræcan.*⁴³³ In this year Rolla passed through Normandy with his army, and he ruled fifty winters; and in this same year the army of the Danes in England swore oaths to King Alfred upon the holy ring, which before they would not do for any nation and also they gave hostages who from the army were the most valued to the king, so that they would quickly go from his kingdom, and at night they violated that (agreement.) See Peter S. Baker, ed., *MS. F, vol. 8 of The Anglo-Saxon Chronicle: A Collaborative Edition* (Cambridge: D.S. Brewer, 2000), ll. 876 – 80.

gold to secure a truce,' the earl's skepticism of the offer and harsh refusal seems justified.⁴³⁴ As informed as Byrhtnoth is about the unreliability of Viking treaties, his later behavior toward his opponents is more puzzling. After initially containing the raiding army at the causeway of the shore, providing the English with a natural advantage, the earl allows the Vikings to gain ground, which turns the tide of battle against him. The complexity of why Byrhtnoth chooses to relinquish his advantage is a source of scholarly speculation,⁴³⁵ yet the poem describes how deception by the Vikings did play some part in making this change. The poet says: *þa hi þæt ongeaton and georne gesawon / þæt hi þær bricgweardas bitere fundon, / ongunnon lytegian þa laðe gystas, / bædon þæt hi upgang agan moston, / ofer þone ford faran, feþan lædan,* 'Then they perceived that and saw clearly that they found there the stern defenders of the bridge, and so the hateful strangers began to act deceptively, they asked that they might have a landing, to go over the ford, to lead the troops onward'.⁴³⁶ How exactly the Vikings worded their entreaty requesting land is never explicitly provided, but Byrhtnoth's decision to listen to their words marks the beginning of true difficulty for the English forces. Deception forms, therefore, a nucleus for the events of this poem. Indeed, despite an indistinct description of how the Vikings influence the earl, the narrative focuses on the unfortunate consequences of deception allowed to develop unhindered. In the resulting fight, the earl is slain and his soldiers are faced with the decision to flee from the battlefield or remain behind to fight against the Viking forces. Stephen J. Harris explains the crux of their conflict in "The Battle of Maldon" accordingly:

In the case of Maldon, it is in the presence of one's superiors that the fulfillment of

⁴³⁴ Elliott Van Kirk Dobbie, ed., "The Battle of Maldon," in *Anglo-Saxon Minor Poems*, vol. 6 of *Anglo-Saxon Poetic Records* (New York: Columbia University Press, 1942) l. 35. Hereafter abbreviated *Mal*.

⁴³⁵ See Helmut Gneuss, "'The Battle of Maldon' 86: Byrhtnoð's 'Ofermod' Once Again," *Studies in Philology* 73.2 (Apr. 1976): 117 – 37.

⁴³⁶ *Mal*, ll. 84 – 88.

one's oath can be verified. One question, then, is whether the oaths of all the soldiers are still binding after Byrhtnoth's death. Another question is whether a Christian and a pagan can be bound together by an oath. In this respect, it is interesting to note that when King Alfred defeated the pagan Viking Guthrum at Edington, their treaty (in other words, their mutual oath-giving) was preceded by Guthrum's baptism into Christianity.⁴³⁷

The clash of ethical questions with questions of faith makes "The Battle of Maldon" a case study in the complexities of addressing honesty across competing ideologies, giving many of the seemingly straightforward instances of literary deception a multitude of layers.

The danger to the virtue of an individual presented by the abuse of oath-taking is thus a key feature expressed throughout the countless religious texts written to address practical concerns about honesty among members of the Christian community. Thus, many Anglo-Saxon church leaders, particularly those at the end of the tenth century experiencing the difficulty of Viking raids, social disintegration, and the anticipation of an immanent apocalyptic catastrophe, adopted attitudes in their writings regarding oaths that reflected legal precedence.⁴³⁸ One such patristic figure from the late tenth-century Church is Ælfric, whose homiletic writings educated his audience against their vices. In the "Decollation of St. John the Baptist" he writes:

*Crist sylf gefæstnode his spræce þa ða he spræc to anum samaritaniscum wife mid
þysum worde: crede mihi. þæt is: gelyf me. Ðeahhwæðere gif we hwær unwærlice*

⁴³⁷ Stephen J. Harris, "Oaths in *The Battle of Maldon*" in *The Hero Recovered: Essays on Medieval Heroism in Honor of George Clark*, ed. Robin Waugh and James Weldon (Kalamazoo, MI: Medieval Institute Publications, 2010), p. 95.

⁴³⁸ Caroline Louisa White, *Ælfric* (Hamden, CT: Archon Books, 1974), p. 60.

*swerian. & se að us geneadige to wyrsan dæde, þonne bið us rædlicor þæt we þone maran gylt forbugon. & þone að wið gode gebetan.*⁴³⁹

Christ himself confirmed through his discourse, when he spoke to a Samaritan woman with these words: *crede mihi*. That is: ‘Believe me.’ Nevertheless if we anywhere heedlessly swear and the oath compels us to worse deeds, then it is wiser for us that we avoid the greater offence and make good the oath with God.

The message echoes, deliberately, the complaint of Æthelstan that oaths are being given without regard to their meaning or the intention that they be kept by the speaker. Ælfric connects his observations on the status of oaths with biblical references in an effort to inspire his audience so that they, like Christ, offer only promises they intend to keep. However, the idea is also emphasized that any promises leading to additional sins are not to be kept as Ælfric emphasizes that God would much rather see broken words and moral actions than the fulfillment of evil through faulty oaths. Likewise, the “Homily for the Fifth Sunday in Lent” reads:

Ælcum geleaffullum men is eac swiðe to warnigenne wið manaða, forðan ðe hi synt swiðe forbodene ægðer ge on ðære ealdan æ, ge on ðam godspelle. Manega men tellað to lytlum gylte, þæt hi oðre men mid manaðum beswicen, ac witun hi, þæt hi beoð ealswa miceles wites scyldige, swa ða manslagan and ða unrihthæmeras and ða oferdrinceras. Eac is manna gehwylcum þearf, þæt he hine forhæbbe fram leasum cyðnyssum, forðam hit is swiðe hefig gylt and fram urum drihtne sylfum forboden, ða he

⁴³⁹ Ælfric, “Decollation of St. John the Baptist,” in *Ælfric’s Catholic Homilies: First Series Text*, ed. Peter Clemoes, Early English Text Society, s.s., 17 (London: Oxford University Press, 1997), p. 454.

*wið Moysen spræc on ðære dune, þe man hæť Sinai, and ðus cwæð: Non falsum testimonium dices ; þæt is: Ne sæge ðu na lease cyðnyse.*⁴⁴⁰

For every believing man is likewise especially to guard (himself) against perjuries because they are especially forbidden both in the Old Law and in the Gospel. Many men reckon too small an offense, that they deceive other men with false oaths, but they know that they are also guilty of a great punishment, as are the murderers, and the illegitimate wives, and the drunkards. Likewise it is necessary for every man, that he abstain from false testimony, because it is an exceedingly grievous crime and forbidden by our Lord himself, when he spoke with Moses on the mountain, which men call Sinai, and said in this manner: *Non falsum testimonium dices*; That is: ‘You shall not speak with false testimony.’

The themes of guarding against false words are appropriated from the law codes and combined with a Christian message. In referencing the Old Law, Ælfric draws explicit connections between biblical regulations binding Christians against false swearing and those legal codes extant in the kingdoms of the Anglo-Saxons that express equivalent themes. While the edicts of the kings require physical punishment, exacted in either monetary or bodily fines, the religious writings speak to the spiritual penalties imposed when a sinner breaks the faith of words. Working together, corporeal and divine judgments provide strong incentives for Anglo-Saxons to hesitate when making or breaking promises.

Within a generation, another influential Anglo-Saxon church member will explore the social and religious obstacles created by swearing. In the early eleventh-century, the clergyman

⁴⁴⁰ Ælfric, “Fifth Sunday in Lent,” in *Angelsächsische Homilien und Heiligenleben*, ed. Bruno Assmann (Darmstadt: Wissenschaftliche Buchgesellschaft, 1964), p. 24.

Wulfstan is responsible not only for many religious orations but also for his contribution drafting legal codes for both Æthelstan and Cnut.⁴⁴¹ In his Creed, Wulfstan recounts:

*Ɗider sculan æwbrecan & Ɗa fulan forlegenan; Ɗider sculan mansworan & morƊwyrhtan;
Ɗider sculan gitseras, ryperas & reaferas & woruldstruderan; Ɗider sculon þeofas &
Ɗeodscadān; Ɗyder sculon wiccan & wigleras, &, hrædest to secganne, ealle þa
manfullan þe ær yfel wohrton & noldan geswican ne wiƊ God þingian.*⁴⁴²

There [outside heaven] will be the adulterers and the foul fornicators; there shall be the ones who swear falsely, and the murderers; there shall be the covetous, robbers and plunderers and despoilers; there will be the thieves and criminals; there will be the witches and magicians, and ones swiftest to speak, all those sinful people who before performed evil things and did not wish to stop nor to be reconciled with God.

This statement makes very clear that the spiritual penalty for misusing oaths is nothing less than forfeiture of the rewards of heaven. The Creed, therefore, supplements the available laws by adding further punishment, and the religious community advances the position of the law separating the truth from deception. Wulfstan's *Sermo Lupi ad Anglos*, the invective sermon, which illustrates the critical situation facing the Anglo-Saxons, includes the following statement: *ond eac syndan wide, swa we ær cwædan, þurh aƊbrycas ond þurh wedbrycas, ond þurh mistlice leasunga forloren, ond forlogen ma þonne scolde;*⁴⁴³ And also there are, far and wide, as we said before, more than should be, lost and perjured through the breaking of oaths and through violations of pledges, and through various lies.' Wulfstan's pronouncement of the moral decline

⁴⁴¹ Dorothy Whitelock, *Sermo Lupi ad Anglos* (London: Methuen's Old English Library, 1967), p. 14.

⁴⁴² Wulfstan, "The Creed," *The Homilies of Wulfstan*, ed. Dorothy Bethurum (Oxford: Clarendon Press, 1957), p. 48.

⁴⁴³ Whitelock, *Sermo Lupi ad Anglos*, p. 61.

of England repeats the earlier criticism directed against the prevalence of false swearing proclaimed in Æthelstan's code. It also reflects Wulfstan's moralizing legal codes, issued by Æthelred and Cnut, English kings who ruled in the early decades of the eleventh century, demanding the immediate conversion or departure of, among others, those guilty of perjury.⁴⁴⁴ Such strong links between laws and religious sermons indicate that where the enforcement of the law codes results in exile, the Church also supplements with spiritual restrictions. The *Sermo Lupi* consistently reiterates the gravity of this problem by demanding better behavior from the English:

*ond utan word on weorc richtlice faian, ond ure ingeþanc clænsian georne, ond að ond wed wærlice healdan, ond sume getryða habban us betweonan butan uncraeftan,*⁴⁴⁵

and let us order words and deeds justly, and cleanse our thoughts with zeal, and keep oaths and pledges carefully, and have some loyalty between us without evil practice;

Ælfric and Wulfstan effectively adopt the work of punishing individuals who abuse the power of swearing oaths. They enhance the enforcement of the civil law against the falsification of oaths with the addition of harsh divine regulations broadcast from the pulpit to augment the legal protection of the truth.

The *Íslendingasögur*, as well as the literature of the Anglo-Saxons, spend a significant amount of time dealing with the potential problems of abuse in oath-taking. The cautious optimism that reputation and social protection together can be enough to safeguard the ability of an individual to swear is severely challenged by those narrative examples dealing extensively

⁴⁴⁴ The laws of Cnut and Æthelred cited here link the false oath with murder, as well as the practice of magic and prostitution. These laws clearly operate within a religious ideology, as well as the legal context. For more, see A. J. Robertson's *Laws of the Kings of England from Edmund to Henry I*, 92 and 178.

⁴⁴⁵ Whitelock, *Sermo Lupi ad Anglos*, p. 66.

with the real danger of deception. Just as the laws address the likely break down of judicial function and aggressively seek to punish any transgression, so too the examples taken from Old English and Old Norse-Icelandic stories provide a cautionary exploration of the tenuous nature of swearing in order to demonstrate what happens when the infallibility of the system of oath-taking is confounded by what Henry Ordower calls the “devious manipulation of legal process.”⁴⁴⁶ The rules that should be fixed are made pliant, and the very people who are charged with the protection of the law become the ones who work to subvert it. Nowhere is this theme of corrupt leadership considered in greater detail than in *Bandamanna saga*. Here Odd’s legal case seeking to outlaw the villain Ospak is derailed by minor procedural errors, and justice is denied on the grounds of technicalities. The jealousy, greed, and resentment of the chieftains in power, however, are truly the causes for the defense against Odd’s suit. The saga author shows how the men who are expected to be the custodians of the legal system instead abuse it for their personal gain, and it is only when Odd engages the service of his cunning father, Ofeig, that his legal troubles begin to turn around. Anderson describes Odd’s father as, “the most winning rogue in saga literature,” who is “the master persuader who knows how to uncover the weaknesses of his opponents, where to drive wedges, and how to weave his arguments into a pattern of plausibility.”⁴⁴⁷ In pursuing the case against Ospak, Ofeig appeals to the judges to remember that they have made personal oaths to *réttast ok sannast ok helzt at lögum*, ‘judge both justly and fairly according to the law.’⁴⁴⁸ The appeal on behalf of Ofeig to the

⁴⁴⁶ Henry Ordower, “Exploring the Literary Function of Law and Litigation in *Njal’s Saga*,” *Cardozo Studies in Law and Literature* 3.1 (1991): 47.

⁴⁴⁷ Andersson, *The Icelandic Family Sagas*, p. 214.

⁴⁴⁸ Guðni Jónsson, ed., *Bandamanna saga* in *Grettis saga Ásmundarsonar*, vol. 7 of *ÍF* (1937; reprint, Reykjavík: Íslenska Fornritafélag, 2001), pp. 322-3. Hereafter abbreviated *Band*. The oaths cited by Ofeig relate to the judges declaring they will act according to the law and without any unjust motivations. See further the discussion in Chapter Three.

oaths required of the judges to deliver untainted verdicts should have been enough to compel them into hearing Odd's case fairly, but Ofeig knows that the oaths alone are not enough to ensure the cooperation of the judges. Therefore, Ofeig supplements this incentive with a little money from the purse he continues to drop and pull back throughout his speech. The saga author clearly points out that it is not enough to rely on the oaths alone to ensure justice; only when the money is on the table does 'justice' transpire and the judges only consider their *eiðabrigðin*, 'oath-breaking' as a secondary concern.⁴⁴⁹ Oaths become completely devalued from this perspective, and Odd acquires his verdict not through the exercising of truth but through an exchange of silver that reminds the audience more of a purchase agreement than a legal case. While the verdict is one that Odd rightfully should have received had the minor technicalities not interfered, the fact remains that justice is tainted by the way the oaths are exploited and the truth is sold.

In addition to the initial scene showing how those oaths fail to work as the safeguards of justice for Odd, *Bandamanna saga* also tells of how the eight chieftains conspire together to go after Odd in order to confiscate his money. Again, the very people who are responsible for maintaining justice instead turn to an abuse of their power in spite of their sworn duty to the law. The eight confederates seal their underhanded agreement to work together against Odd *eiða ok hyggja nú, at þessu megi ekki bregða ok engi muni traust á bera eða kunnáttu í móti at rísa* 'with oaths and now they think that no one would have the power or confidence to break this agreement or the knowledge to stand against it'.⁴⁵⁰ The oath provides an ironic undertone to the forming of this confederacy, especially when the chieftains should be swearing to protect

⁴⁴⁹ *Band.*, p. 323.

⁴⁵⁰ *Band.*, p. 327.

rather than to exploit this man. Like common criminals, and just like the judges from the earlier chapter, the leaders who should exemplify honor and respect exchange these virtues for the opportunity to turn a small profit by manipulations of the law.⁴⁵¹ Thus, *Bandamanna saga* renders the judicial system of the Icelandic world in a very unflattering light, where money carries more substance than truth and oaths are given to whomever has the most money to offer rather than the most truth on his side.

Víga-Glúms saga presents a situation where, unlike the disregard of justice in favor of money, personal advantage is the justification for manipulating legal swearing to the fullest extent. Glum Eyjolfsson's ability to use words to his advantage is well established prior to the moment concerning his swearing; Glum is skilled enough with his speech to *þrætta*, 'to argue,' with his kinsman Guthbrand until Guthbrand accepts the credit for a killing that Glum's enemies want to punish him for with legal charges. And while Glum's verbal manipulation might have freed him from any legal action, his words in a later verse reveal that he possibly has a responsibility for the killing. For this reason, Glum is summoned and asked to give testimony under oath regarding his role in the matter. This sworn testimony will, his enemies believe, require him either to admit guilt for his role in the killing, or perjure himself by lying under oath. The scene is, therefore, set for Glum's words to be used as weapons against him, and neither prospect will allow his escape from prosecution, since he becomes either a killer or a liar as a result of the oath.

Just at the moment when words appear to be most dangerous to him, however, Glum again employs them with an aptitude for turning language to his advantage. The saga tells how

⁴⁵¹ See discussion in Chapter Three.

in the presence of six witnesses and in three different temples, Glum warps the moment of oath swearing so that he neither speaks falsely nor impeaches himself:

*Þá kvað Glúmur svo at orði: "At ek nefni Ásgrím í vætti, annan Gizur í það vætti, at ek vinn hofseið at baugi, ok segi ek þat Æsi, at ek vark at þar ok vák at þar ok rauðk at þar odd ok egg, er Þorvaldur krókur fékk bana. Líti nú á eið þeir er spekimenn eru og við eru staddir."*⁴⁵²

Then Glum spoke with these words: "I name Asgrim as witness, and next [I name] Gizur as a witness that I take a temple oath and on the ring I deny that to the god, that I was (not) at that place, and struck there, and I did (not) redden the point or edge [of my weapon] there, where Thorvald Hook suffered death. Now let those wise men who are standing by look on the oath."

John McKinnell, in his translation for *The Complete Sagas of the Icelanders*, notes about this oath: "Glum's oath depends on the preposition *at* having the same form as a poetic negative suffix, so that *ek vark at þar* – 'I was at that place' and *ek varkat þar* – 'I was not there' sound identical."⁴⁵³ The clever way that Glum phrases his language when swearing allows for the greatest possible ambiguity in the matter. Because the saga's narrator never reveals to the audience precisely who struck the killing blow against Thorvald, it is impossible to determine where Glum is speaking the truth and where he is lying. Glum is indeed present when Thorvald is killed, and he quite possibly struck against him with his weapon, however the key point of declaring guilt, whether his blows against Thorvald drew blood, is appropriately ambiguous. The

⁴⁵² Jónas Kristjánsson, ed., *Víga-Glúms Saga* in *Eyfirðinga Sögur*, vol. 9 of *ÍF* (1938; reprint, Reykjavík: Íslenska Fornritafélag, 2001), p. 86.

⁴⁵³ John McKinnell, trans., "Killer-Glum's Saga," vol. 2 of *The Complete Sagas of Icelanders*, ed. Viðar Hreinsson (Reykjavík: Leifur Eiríksson Publishing, 1997), 2:307.

oath can be read either as an admission of his guilt, or a strong claim of innocence, and both are equally valid interpretations under this standard. Glum's enemies, however, naively believe in the power of the oath formula to expose only the absolutes of guilt and innocence, and they fall victim to the duality of Glum's words until the deception is revealed by outside parties. When Thorarin, Glum's enemy and brother of the slain man, is finally made aware of the language he replies: *Ekki fundum vér at*, 'we found nothing wrong'.⁴⁵⁴ The 'truth' of the oath, as this instance reveals, is all in the matter of the interpreter's perspective. And while Glum does not break the letter of the law in swearing this oath, he does violate the spirit through language that allows him to pass off unclear wording as the truth, knowing it could be misinterpreted.

The delivery of true words in a general sense, which are false in their details, composes a major literary element in more saga narratives than just *Víga-Glúms saga*. When the love affair between the noble lady Spes and Thorstein is exposed by the injured husband in *Grettis saga*, the lady is permitted to clear her name using an oath in the presence of the bishop. It is here that the saga redactor employs a common motif among deceptive swearing practices known as the "equivocal-oath," which allows the person swearing enough ambiguity in his language to "avoid the consequences of lying and still conceal the truth."⁴⁵⁵ Together Spes and Thorstein conspire to set up just the right conditions where Spes can swear with words that, while technically true, also withhold her affair from her husband. This particular equivocal-oath, using the touch of the accused as the point of honesty for the purpose of obfuscation, used in a similar manner in the *Tristan and Isolde* legend, requires Thorstein to disguise himself as a

⁴⁵⁴ *Víga-Glúms saga*, p. 87.

⁴⁵⁵ J. Childers, "The Dispersion of the Equivocal-Oath Motif," *Arv.* 36 (1980): 107.

beggar who carries Spes across a muddy ditch and is in return paid for his services.⁴⁵⁶ Using this very public contact with a camouflaged Thorstein, Spes then swears:

En fyrir það vil ek sverja, at engum manni hefi ek gull gefit ok af engum manni hefi ek saurgazk líkamliga útan af bónda mínum ok þeim vándum stafkarli er tók sinni saurugri hendi á lær mér, er ek var borin yfir díkit í dag.

Therefore I will swear that I have not given gold to any man or been defiled bodily by any man, except for my husband and the vile beggar, who placed his dirty hand on my thigh, when I was carried over the ditch today.⁴⁵⁷

Spes is not swearing falsely before the bishop in the most liberal sense because she is openly disclosing her contact with Thorstein, who is her only lover other than her husband. Moreover, the way that Spes describes the touch of the ‘beggar’ is laden with sexual imagery, particularly through the word *lær*, which refers to the “fleshy parts of the body” and “the leg above the knee.”⁴⁵⁸ The intimacy obliquely referenced in this word in the graphic description of how Thorstein disguised as the ‘beggar’ inappropriately touches Spes, while in a public space, provides her with enough material to avoid perjuring herself with this oath. As a result of this oath, which simultaneously reveals and conceals the truth, the frustrated husband cannot seek further legal action against either Spes or Thorstein. Ultimately, he is charged with slander himself for bringing false charges against his wife, and Spes subsequently divorces him. Not only is justice stymied by allowing Spes to carry out her affair in a legally approved way, but also her husband’s legitimate grievance is transformed into a way to punish him further. Even when the

⁴⁵⁶ J. Childers, “The Dispersion of the Equivocal-Oath Motif,” *Arv.* 36 (1980): 114.

⁴⁵⁷ *Grett.*, p. 284.

⁴⁵⁸ *An Icelandic-English Dictionary*, s.v. *lær*.

truth behind Thorstein's disguise is eventually revealed, and the whole meaning of the oath is made clear, the deceived husband *fekk enga réttning þess máls, ok er hann ór sögunni*, 'received no compensation for this matter, and he is out of the saga'.⁴⁵⁹ While the husband is clearly not an appropriate match for a woman as intelligent and beautiful as Spes, this disparity does not change the way the authority and integrity of law are destabilized through the power of words. While the legal rituals represented in this story demonstrate a careful consideration of the accuracy of what Spes says, they also prove the ineffectiveness of such laws to enforce the spirit of the oath-taking, as Spes carefully exploits the vulnerability of the oath.

The Icelandic saga that contains the most references to individuals swearing oaths in a legal context is *Brennu-Njáls saga*, whose plot is propelled by detailed attention to litigation. The prevalence of oaths is consequently not surprising, as Ordower asserts, the "legal claims without an identifiable foundation arise frequently to move the plot along, and litigation contributes meaningfully to dramatic tension."⁴⁶⁰ With a judicially rich narrative, the author must also include many instances of oaths to authenticate the progression within the storyline. Yet these legal proceedings consistently break down throughout the saga, and the moments that should be marked by the arbitration of law instead collapse with violent results. Predictably, the emphasis on the failure of law to adapt to the changing social, political, and religious structure of Iceland also implies a similar decline in oaths and other legal formulas that should be holding the nation together.⁴⁶¹ True to this pattern, many of the oaths in *Brennu-Njáls saga* are not the binding expressions of personal honor that they should be. The oath,

⁴⁵⁹ *Grett.*, p. 285.

⁴⁶⁰ Ordower, "Law and Litigation in *Njal's Saga*," p. 48.

⁴⁶¹ Jeffrey Slusher, "Runic Wisdom in 'Njal's Saga' and Nordic Mythology: Roots of an Oral Legal Tradition and Northern Europe," *Cardoza Studies in Law and Literature* 3.1 (1991): 21 - 39.

therefore, is not the final authority on truth that the laws of *Grágás* and *Jónsbók* would suggest. Frequently the saga's characters are required to use deception, and the oath becomes merely another vehicle that leads to further frustration of justice and additional violence. For example, in the case against Hrut to reclaim Unn's dowry, Gunnar disguises himself in order to trick Hrut into the summons, and this manipulation causes Hrut to pronounce the very language that is used in his own summoning.⁴⁶² At the trial, moreover, Gunnar offers *eiðspjalls síns ok framsögu sakar ok sóknargagna*, 'his oath-swearing and his statement of charges and his proofs for prosecution' which should move the case forward.⁴⁶³ Gunnar's witnesses, evidence, and oaths should all be enough proof for a successful trial; however, as discussed above, Hrut is able to raise procedural discrepancies to block Gunnar's action and invalidate his oaths. Hrut's party quite easily disarms the power of these oaths, and what should be a legally binding moment is confounded instead by ineffective procedures. Following this breakdown in the system of justice, Gunnar does not return to the law but issues a challenge to Hrut to settle the matter through a duel. The process that was once regulated by words and legal precepts devolves into a situation where the threat of violence and physical strength determine the outcome. *Brennu-Njáls saga* represents, therefore, a world in which the process of swearing has been stripped of its ability to regulate legal action. Fraudulent means are required to follow the steps in bringing a case, oaths do not have their intended authority to facilitate peaceful conclusions, and only a man's capacity for brute force delivers any resolution for the grievance.

Even as the redactor of *Brennu-Njáls saga* explores the deficiencies of oath-taking in the context of Icelandic judicial structure, these verbal declarations also serve as a way to examine

⁴⁶² See the discussion above (pp. 165 and following) about the context of identity related to this situation.

⁴⁶³ *Njála*, p. 66.

the moral and spiritual repercussions of words. Following a failed attempt at arbitration between Flosi and Njal's sons regarding compensation for the death of Hoskuld, the enraged Flosi and his supporters all swear that they will seek blood vengeance against their opponents.

The saga relates:

Flosi mælti: "Því vil ek heita Sigfússonum at skiljast eigi fyrr við þetta mál en aðrir hvárir hníga fyrir öðrum. Vil ek ok þat vita, hvárt nokkur er sá hér, at oss vilji eigi veita at þessu máli."

Allir kváðusk þeim veita vilja. Flosi mælti: "Gangi nú allir til mín ok sverji eiða, at engi skerisk ór þessu máli." Gengu þá allir til Flosa ok sóru honum eiða. Flosi mælti: "Vér skulum ok allir hafa handtak at því, at sá skal hver hafa fyrirgört fé ok fjörvi, er ór gengr þessu máli."

Flosi said: "This I promise to the Sigfussons, never to abandon this case until either one side or the other falls dead. I wish also to know whether there is anyone here who is not willing to give support to us in this case."

And they all declared their assent. And Flosi said: "Now let everyone come to me and swear an oath not to withdraw from this case." Then they all went to Flosi and swore oaths to him. Flosi said: "We shall also all have a pledge that he shall have forfeited property and life, whoever withdraws from this case before it is concluded."⁴⁶⁴

The language used by Flosi to bind his supporters together is very powerful, and therefore also very perilous. By excluding the option of a peaceful settlement from their oaths, they have obliged themselves to use only violence against Njal's family. All of the weight of their personal honor becomes linked to this need for bloodshed, and this is heightened by the extremity of

⁴⁶⁴ *Njála*, p. 315.

what the men swear. The lack of moderation in requesting that either group be completely destroyed, as well as the decision to punish any oath-breaker with confiscation and death, requires Flosi and his companions to either commit inexcusable brutality or suffer the consequences of what they swear. Adding more tension to this already troubled situation is the fact that Iceland has already converted to Christianity, placing even more moral constraint on these men. According to Christian doctrine, oaths should never be sworn casually and participation in murderous activities is a mortal sin.⁴⁶⁵ Agreeing to Flosi's words, therefore, results in an irresolvable tension that will either necessitate a heinous killing or the total collapse of their integrity by breaking their oath. This is precisely what happens when the attack on the Njálssons begins to fail, and Flosi says:

Eru nú tveir kostir, ok er hvárrgi góðr: sá annarr at hverfa frá, ok er þat várr bani, en hinn annar at bera at eld ok brenna þá inni, ok er þat stór ábyrgð fyrir guði, er vér erum menn kristnir sjálfir. En þó munu vér þat bragðs taka.

Now there are two choices, and neither are good: the first is to give up – and that is our death; the other is to set fire [to the house] and burn them within [the building], and that is a great responsibility before God, since we are Christians ourselves. Nevertheless we must take some step in this.⁴⁶⁶

Flosi identifies here the essential moral dilemma his oath causes, and his men cannot take either course of action without serious repercussions. Although it would be more morally acceptable under the Christian faith to break the oath and refrain from the burning, Flosi and the others choose instead to maintain their oaths even in the face of penalties against both their souls and

⁴⁶⁵ See Ælfric's discussion of this doctrinal question above on p. 206.

⁴⁶⁶ *Njála*, p. 328.

their honor.⁴⁶⁷ Because the oath binds these men into a situation where they must break the law, commit sins, and surrender some personal honor no matter how they act, the immoderate oath that is upheld cannot be justified.⁴⁶⁸ The lack of responsibility that Flosi and the burners exhibit leads to a collapse in the legal system at the end of *Brennu-Njáls saga* where the entire social structure of Iceland almost breaks down through violence at the Assembly. Thus, in this most dangerous form, the oath is represented as a moral trap, which cannot allow its participants to escape its use without some damage to their inner selves.

The motif of deception reaches an important literary apex within the Old English biblical poem *Genesis B*, from the *Junius 11* manuscript. The *Genesis*-poet carefully embellishes the original Old Testament storyline by providing critical details, like the account of Satan's rebellion and exile from heaven, to establish a wider framework prior to the temptation in Eden.⁴⁶⁹ By amplifying the biblical narrative in this fashion, the poet carefully explores new dimensions in the complex emotions and ambitions associated with the army of devils and their malevolent leader. Along with developing the motivations for Satan's beguiling of humanity in a more defensible way, the *Genesis*-poet also carefully overlays important Germanic themes, like loyalty to one's lord or exile into the plot.⁴⁷⁰ R. E. Woolf observes: "by an almost metaphorical

⁴⁶⁷ Again, the details of this religious principle are above in the discussion on p. 206.

⁴⁶⁸ *Brennu-Njáls saga* is not the only instance of this problematic oath. Both Hrafnkel, from *Hrafnkels saga*, and Einar Sokkason, from *Grændlendinga Saga*, also swear oaths, which later require them to decide between murder or oath-breaking. It is interesting that in all these decisions the characters choose the option which leads to violence.

⁴⁶⁹ Why a righteous, pure, and loving God would even allow the temptation of humanity to happen is a question of much debate among various philosophical, religious, and literary texts. That the Anglo-Saxons wrestled with this perplexing subject roughly seven-hundred years before Milton's efforts to "assert Eternal Providence / And justify the ways of God to men" bespeaks a deep fascination with deception as the original cause of humanity's suffering.

⁴⁷⁰ See Stanley B. Greenfield, "The Formulaic Expression of the Theme of 'Exile' in Anglo-Saxon Poetry," *Speculum* 30.2 (1955): 200 – 6.

treatment the terms used of persons and situations derived from heroic society could be applied to Satan, for his disobedience to God had an intrinsic likeness to the revolt of a *þegn* from his lord and the subsequent punishment of being an outcast from heaven was a fate of which the exile of a *þegn* from his natural place in his lord's hall might well appear the earthly shadow."⁴⁷¹ Recasting the story in these social terms transforms Satan from an impersonal force of temptation into a comprehensible adversary, whose origins and agency can be explained, or even pitied by the audience. Satan's frustration at the loss of his previous reputation and his jealousy over humanity's subsequent exaltation validates his request for a fallen angel to seek revenge for this slight by tempting humanity. Thus, the development of the war against good and evil in *Genesis* progresses along the lines of a feud necessitated by the betrayal of Satan against God's supremacy, placing issues of deception and trust in the center of this narrative.⁴⁷²

If petty jealousy initiates the demonic quest to expose the vulnerabilities of humanity, it is fitting that another corrupting deficiency of character, deception, is closely associated with the agent responsible for carrying out Satan's orders. The devil who volunteers for the job of tempting Adam and Eve is suitably equipped to accomplish this task. The poem relates:

*Anginnan hine þa gyrwan godes andsaca, / fus on frætwum, (hæfde fæcne hyge), / hæleðhelm on heafod asette on þone full hearde geband, / spenn mid spangum; wiste him spræca fela, / wora worda,*⁴⁷³ 'then an enemy of God began to prepare himself, ready in adornments, (he had a guileful heart), he set the helmet on his head and bound it very firmly, fastened with clasps; he

⁴⁷¹ R. E. Woolf "The Devil in Old English Poetry, *The Review of English Studies*, New Series 4.13 (1953): 1-2.

⁴⁷² The message of faithfulness and falsehood recurs throughout *Genesis*, as humanity, through the Israelites, attempts to hold to God's covenant in the wake of the Fall, the Flood, and other moments that test that commitment. See Peter J. Lucas, "Loyalty and Obedience in the Old English *Genesis* and the Interpolation of *Genesis B* into *Genesis A*," *Neophilologus* 76 (1992): 121-35.

⁴⁷³ George Krapp, ed., *Genesis*, in *The Junius Manuscript*, vol. 1 of *Anglo-Saxon Poetic Records* (New York: Columbia University Press, 1931) ll. 442 – 6. Hereafter abbreviated *Gen*.

knew many speeches, twisted words.’ Sharp contrast exists between the appearance of the tempter, externally adorned and equipped as if he will perform heroic deeds, and his internal disposition, which is actually corrupted and pusillanimous. This divergence between the devil’s form and the reality of his soul foreshadows the deception facing Adam and Eve, when the devil’s pleasant words will conceal the darker intentions of the deed he instigates.

Accompanying the poet’s deliberate pairing of external and internal difference, to highlight the distinction between fair-sounding words and foul deeds of betrayal, *Genesis* also introduces an extra-biblical moment of temptation when the devil first approaches Adam with carefully crafted falsehoods designed to contravene God’s commandment forbidding eating from the Tree of the Knowledge of Good and Evil. By initially claiming that he is a messenger from heaven, the devil veils his words to Adam, hoping that they will be enthusiastically accepted as a divine command. Not only does he appeal to Adam’s vanity, but by claiming that God has been praising his words and work, the tempter also attempts to underscore how eating the fruit will remedy the shortcoming in Adam’s abilities: *Nu he þe mid spellum het / listas læran. Læste þu georne / his ambyhto, nim þe þis ofæt on hand, / bit his and byrige. þe weorð on þinum breostum rum, / wæstm þy wlitegra*, ‘Now He bid by messages that you be taught cunning. You should eagerly attend his commands, take you the fruit in hand, eat of it and taste. You will become unencumbered in your breast, your form (will be) more fair’.⁴⁷⁴ The devil shrewdly joins his appeal to Adam’s vanity with an underhanded criticism that his intellect is not yet complete until he gains the knowledge provided by the tree. Such a simultaneous effort to provoke both pride and envy, however, falls unsuccessfully on the father of humanity. Adam responds *nat þeah þu mid ligenum fare þurh dyrne gebanc þe þu drihtnes eart boda of heofnum*,

⁴⁷⁴ *Gen.*, ll. 515b – 20a.

'I do not know whether you come with lies through evil design, or if you are a messenger of the Lord from heaven'.⁴⁷⁵ Adam's healthy skepticism of the devil's commands and his reluctance to act in contradiction to a personal command from God successfully thwarts this initial attempt at introducing sin into paradise.

Not only does Adam implicitly rebuff the devil's assertion that his intellect is missing an essential component, he also declines to trust the initial claim that this message originates directly from God without any corroborating evidence. He states: *ne þu me oðiewdest ænig tacen / þe he me þurh treowe to onsende / min hearra þurh hyldo*, 'you have not shown any token which my Lord sends to me through truth and favor'.⁴⁷⁶ Adam cites the disparity of the content in the devil's message as well as the fact that he does not possess the regular physical signs that his message is divinely inspired. This request to link the devil's verbal appeal with physical cues of legitimacy suggests that Adam is already aware of the breakdown in the union of veracity and action in the cosmos.⁴⁷⁷ The initial rejection of the first temptation also foreshadows the skepticism emerging for all future verbal transaction after the Fall of humanity occurs. Although this initial scene of temptation originates outside traditional biblical accounts, the poet uses it to suggest a wider rift between pleasant sounding words and the stark reality of actions.

The devil, though rebuffed by Adam, does not abandon his efforts at temptation. Focusing instead on Eve, the serpent's successive request builds even further upon the illusion

⁴⁷⁵ *Gen.*, ll 530 – 1.

⁴⁷⁶ *Gen.*, ll. 540 – 1.

⁴⁷⁷ This returns us to the discussion of identity and its critical application to integrity. This is compounded by the fact that Eve views the devil as handsome in appearance when she falls into temptation. Adam represents the ideal of Germanic oath-taking in which knowledge of the participants is a critical component while Eve demonstrates the danger in not adhering to that standard.

of heavenly sanction for his message. The second attempt opens with a caution that Adam's earlier rejection will incur God's wrath, a claim that preys upon his wife's fear of divine retribution. The serpent's speech connects that fear with an inflated sense of self-importance by suggesting that Eve can save Adam by offering the forbidden fruit to her husband and lending her credibility to the plea of the serpent. Appealing to the protective nature of the first woman inspires pride in her abilities and thus mirrors Satan's own original transgression, as she seeks to elevate her status above the man.⁴⁷⁸ More significantly, the devil urges Eve to manipulate her own language to induce Adam's cooperation, advocating that she become, in essence, his surrogate tempter. The serpent urges:

*Meaht þu Adame eft gestyran, gif þu his willan hæfst and he þinum wordum getrywð.
Gif þu him to soðe sægst hwylce þu selfa hæfst bisne on breostum, þæs þu gebod godes
lare læstes, he þone laðan strið, yfel andwyrde anforlæteð on breostcofan, swa wit him
bu tu an sped sprecað.*

You will be able, moreover, to manipulate Adam if you command his desire and he trusts your words. If you tell him truly what an exemplary precept you yourself hold in your breast, because you have followed the command of God's instruction, he will abandon the hateful strife, the evil answer in the breast-chamber, so that we two both together might speak so as to convince him.⁴⁷⁹

The devil provides powerful motivation for Eve's compliance, especially by suggesting she can join him in an angelic conspiracy to keep Adam's earlier rejection hidden from God. Despite this

⁴⁷⁸ The implication here should not focus on Eve as "inferior" to Adam prior to the Fall, since both are created *imago dei*, in the image of God. Yet gaining the knowledge from the tree before Adam would allow her to assert dominance over him, thereby disrupting the partnership they share; in the same manner, "saving" him from the wrath suggested by the devil would also allow Eve to possess more favor with the divine at the expense of their formerly identical relationship with God.

⁴⁷⁹ *Gen.*, ll. 568 – 75a.

compelling pretext for her behavior, the devil's speech offers one significant clue to his malicious intent. The impossibility of trying to conceal any action from an omniscient deity reveals the false nature of his promise, making his willingness to speak insincerely about Adam's rejection serve as a signal to the treacherous nature of his words. Unlike the skepticism initially protecting Adam, however, Eve never doubts that these words might not correspond to the reality of the situation. As a result, this successful deception allows for the introduction of sin into Eden and the corruption of all language throughout creation.

The poet of *Genesis* paints a disconsolate picture of deception's destructive capabilities, especially the devil's use of flattery to achieve Satan's purposes. This illustrative, philosophical discussion about the nature of sin and the collapse of dependable language further corroborates other literary examples of dishonesty, wherein a scarcity of skepticism facilitates the corruption of swearing, as substantiated by those sagas where oaths fail to prevent the abuse of justice or wrongdoing.

CONCLUSION

The oath, within the legal and literary narratives of Anglo-Saxon England and medieval Iceland, finds potency not only from the text of the law or the mandates of society, but also from the internal measure of the moral and spiritual (both Christian and pagan) integrity of the person delivering the oath. While the legal oath might attempt to regulate intentions and motivations within the context of seeking justice, the representative literature of the Anglo-Saxons and Icelanders enhances our understanding of the full application of these processes. The complexity of this duality can be seen in these literary corpora through the lens of the motifs of "society," "testing," and "deception." Society creates integrity in an individual through its familiarity with the speaker, testing allows the words of an individual to be held against his actions and deeds to evaluate his honesty, and deception represents one of the greatest threats

to the oath-system by subverting the values of society and falsifying the test. Taken together, these motifs reflect the Anglo-Saxon and Icelandic acknowledgement of the power and vulnerability of oaths.

Although the process of swearing legal oaths is overtly regulated and is already a very complicated and serious activity within the Icelandic and Anglo-Saxon world, countless works of Old English and Old Norse-Icelandic literature add subtle moral undertones by pointing out the inherent danger of exploited language. Examples from the collection of *Íslendingasögur* and key Anglo-Saxon texts all speak to their audiences about the importance of a person following through on his words with genuine deeds. The system of trust spelled out in the laws, and given divine importance in the Christian homiletic texts, finds application in the models for correct behavior found in these examples from the Anglo-Saxon and Icelandic literary corpus. These works stress that words may indeed fail, and opponents will most certainly tell lies, but the honorable Anglo-Saxon or Icelander does not allow his own words to be incompatible with his behavior. These heroic and social models emphasize the importance of honesty to inspire emulation, while also warning society of what happens when false oaths are permitted to run rampant among the community. The Anglo-Saxons and Icelanders recognized the benefit of trusting an individual's word, as well as the danger of placing too much faith in an oath or reputation. Thus, Anglo-Saxon and Icelandic literary narratives abound with examples of how society actively fights falsehood through laws applying corporal punishment to deceivers, sermons delivering righteous vengeance for speaking falsehoods, and the shame of opprobrium.

Countless literary texts urge their audiences to be careful about whose words they trust and counsel them to monitor their own speech to avoid falling victim to the dangerous nature of words and their misuse. As demonstrated by the many laws punishing perjury, the fear and reality of false oaths present a danger that stands to undermine the very fabric of both islands'

judicial structures. While legal texts may make the oath an essential feature of promoting justice and delivering correct rulings, the literary pieces from this period explore the more nuanced background of appropriate and inappropriate usage of the oath-taking motif. And yet, as powerful as oaths are for the legal world of England and Iceland, the process of swearing also includes the risk for the manipulation of that language. The examples of how oaths fail to prevent violence and how they are easily manipulated for personal gain suggest that these spoken guarantees are not as infallible as they might initially seem from the legal perspective. Moreover, many of these formal exchanges can result in morally ambiguous situations, as in the example of Flosi, where the speaker is bound to perform undesirable activity or face an equally destructive loss of honor. What remains abundantly clear, even in the tangle of intentions and perceptions produced by the Germanic oath-culture, is that the struggle for impartial justice and objective truth is at the heart of any society claiming to offer justice.

CHAPTER 5

THE SUCCESSION OF SWEARING MOTIFS IN LEGAL AND LITERARY CONTEXTS

*Was ther nevere man so hardy, / That durste felle hys false body: / This hadde he for hys lye.
Now Jesu, that is Hevene-kyng, / Leve nevere traytour have betere ending / But swych dome for
to dye.*⁴⁸⁰

*There was never a man so bold, who would dare to take down [Wymound's] false body [from
where it was displayed after execution]: he received this for his lie. Now Jesus, who is the
heavenly king, never let a traitor have a better ending, except to die by such a judgment.*⁴⁸¹

⁴⁸⁰ *Athelston* in *Four Romances of England*, ed. Ronald B. Herzman, Graham Drake, and Eve Salisbury, Middle English Texts Series (Kalamazoo, MI: Medieval Institute Publications, 1999), ll. 807 - 12.

⁴⁸¹ This passage describes, at the conclusion of the Middle English Romance *Athelston*, the execution of the deceitful and traitorous Wymound as punishment for the lies he tells about his sworn-brother Egeland

In Bound by Words: The Motif of Oath-Taking and Oath-Breaking in Medieval Iceland and Anglo-Saxon England, I have examined how the social implications of honesty permeate the legal and literary writings of both the Anglo-Saxons and medieval Icelanders. This study has analyzed the practice of swearing through the exploration of specific legal rituals and literary motifs, often associated with honesty, within these writings. Ultimately, society's responsibility for validating true speech and punishing deceptive words is revealed through its role in assessing truth from a variety of perspectives: as statements of veracity, pledges, vows, and ultimately oaths.

As important a subject as truth is for both English and Icelandic writers, these two cultures also seem hesitant to wholly rely on the dependability of swearing as a force for social order. On the one hand, oath-taking is frequently portrayed as a sacrosanct act, able to constrain or compel action until one's deeds meet the standards expressed by one's words. On the other hand, however, honesty appears as a fragile feature of interpersonal relationships, inherently exposed to the potential exploitation of social weakness. Reconciling these two positions takes careful consideration of how the texts produced within these two cultures depict the desire for control over language, as well as how they also represent moments when control is lost and the boundaries preventing abuse are contravened.

When law is approached as the means of enforcing appropriate behavior, it places legal texts at the nexus of important discussions concerning honesty. Indeed, a preoccupation with establishing trust is abundantly reflected in the major legal collections of Iceland, especially *Grágás* and *Jónsbók*, and the significant body of legal codes issued under the guidance of various Anglo-Saxon kings, such as Wihtræd, Alfred, or Æthelstan. Consequently, swearing becomes the

to King Athelston. It serves an important reminder of how honesty continues to function as a feature of literary interest well beyond the Anglo-Saxon period.

primary means by which the members of the community responsible for administration of justice (either judges or members of a jury) are confirmed, plaintiffs declare their prosecutions to be valid, defendants express their innocence, and witnesses endorse their testimony. Here the legal rituals appear to overwhelmingly recognize speech as the means of inciting suitable behaviors, and they unflinchingly adopt words as the fundamental foundation upon which justice is established. No case, in England or Iceland, could be considered authentic without some form of swearing contributing to its progression. As a result, the oath becomes deeply entrenched in the justice systems of these islands as the integral component of legal administration.

Even at the height of the oath's influence, though, the legal texts acknowledge the potential malleability of language and, therefore, the importance of guarding trust carefully. The high cost of the eternal vigilance necessary to maintain the oath's role in the quest for social order is clearly recognized by legal authorities. When cases call for more significant action or offer increased risks, additional attestation is required by the law to alleviate the intensified pressure on the viability of language to deliver justice.

The legal texts may rely heavily on honest oaths to legitimize action, yet they reflect equal concern over how easily abused these exchanges can be when dishonest language masquerades as truth. The very presence of these laws leads to the inevitable implication that fraudulence is indeed prevalent in the system. In order to avert the potential dangers of falsehood, the legal texts balance the optimism of the oath with a series of skeptical regulations punishing perjury or constricting who can swear. To impress upon society the danger that fraudulent language poses to a successful legal system, these laws will often excise the offender from the community, either by literally cutting out his tongue or, more symbolically, by exiling him, thus ensuring that no further mendacity can occur. Thus, the laws show how the legislative

leaders of Anglo-Saxon England and Iceland try to control or limit improper access to swearing in order to ensure that those who swear do so without outright deceitfulness or subtle equivocation.

Much like the legal texts, swearing occupies a complex, dual-layer position of admirable, yet dangerous, necessity in the narrative works of England and Iceland. Although the law may be more explicit with its reliance on swearing as a positive force, the literature is not without its own means of promoting honesty. While the expressions of truthfulness for literary texts may not always take place in the courtroom, the need for sincerity is easily transformed to fit the narrative devices of each particular aesthetic, be they concerns raised by gnomic, heroic, elegiac, or historical compositions. For each of these categories of literature, the message of trust as a measure of an individual's worth is deliberately reinforced. An overwhelmingly affirmative attitude about the utility of swearing has the most cultural resonance, however, in the heroic literature of both cultures. England and Iceland are defined by their respective heroes, like Beowulf or Gunnar, whose worth can be effectively measured by their abilities to match words with deeds. The benefits of authenticity in language are thus reinforced by the power of the hero to exemplify a life grounded in integrity for the community.

If law recognizes the power behind swearing to bring reliability to one's actions, then the literature provides an embodiment of what that command of language might look like when actualized within the fictionalized narratives of life. Paralleling the legal texts, the literary ones also emphasize the delicate balance holding together the system of swearing. Deception becomes, consequently, a major theme within the narratives of many literary texts, as characters struggle to maintain honesty in a dishonest world. Like the law, which seems to allude to an unwanted prevalence of deceptiveness, the significant number of literary texts broaching this subject would indicate an awareness of the magnitude of the problem. The laws

approach dishonesty with the objective of preventing or correcting it, while the literary texts are more concerned with demonstrating what happens after deception occurs. In this respect, as my examples illustrate, the literary world explores the nuanced circumstances contributing to fraud and its aftermath as it affects society.

In order to avoid the negative consequences of deception, both the laws and the literature of Anglo-Saxon England and medieval Iceland rely on the participation of neighbors, friends, and relatives as oath-helpers or witnesses to ensure that no words of attestation are taken without the oversight of the community. The literary writings of Anglo-Saxon England and Iceland further this trend by stressing even more matter-of-factly the role society plays in keeping reputation accurate. Characters are involved in safeguarding their reputations closely throughout the literary narratives, and questions about a character's sincerity or authenticity may lead to dishonor. As exile and alienation drive some characters outside of the sphere of community, we can further see how detrimental any separation from the system of established reputation is for their ability to participate in any future rituals of swearing. Most importantly, however, is the way that literary texts urge the public to exercise caution when dealing with individuals of dubious standing. Society is warned, through the many examples of exploitative language, to maintain a continuous vigil over trust when it comes from externalized forces of uncertain credibility. On the other hand, those literary representations of successful betrayal or deceit from within the protected confines of familiar society offer somewhat more worrisome considerations of the delicacy of trust. The correlation of concern represented by the parallel focus on social scrutiny and the use of reputation in both legal and literary texts in medieval England and Iceland simply underscores the magnitude of the status which truth holds in their world.

In investigating the legal and literary representations of swearing within the Anglo-

Saxon and Icelandic worlds, I have found that there are significant overlapping concerns expressed within these texts. While the literature does not always perfectly mirror the image of how swearing works from the legal texts, each set of examples bespeaks both the necessity of using language to assert veracity as well as the urgency of using caution to minimize the risk of trusting too casually or extensively. If the legal texts share regulations primarily to enforce a sense of social order, then the literary ones offer narratives of how these legal procedures play out in the wider context of life, especially when law is contravened by deception or complications that challenge the smooth operation of swearing.

Although the shifting religious and political situations in both Iceland and England in the Middle Ages are marked by the influx of new political, religious, and social matters for both cultures, the questions about the nature of trust and deception raised by the Anglo-Saxons and early Icelanders continue to resonate. The Norman Conquest of 1066 is seen as a delineating event in English history that superimposes a new French nobility over the existing Anglo-Saxon class structure.⁴⁸² It also allows for the influence of a more Continentally-based legal tradition to make its presence felt in the subsequent codes issued by later rulers of England, without losing the English focus on the importance of swearing. In a similar way, the exertion of greater Norwegian royal control over Iceland in the wake of the *Gamli Sættmáli* and *Jónsbók*, especially manifested through the issuance of royal amendments, retains the Icelandic emphasis on refining the methods of containing social irregularities through the regulation of language. Legal rituals surrounding swearing, and the concern for maintaining its integrity, continue to function as important features of the legal landscape long after significant changes come to these

⁴⁸² Interestingly enough, although this is characterized as a French influence, it is worth remembering that the family line of the Duke of Normandy is distinctly Scandinavian in origin.

governmental systems.⁴⁸³

In a literary sense, moreover, many of the concerns about a character's integrity and the trust of language continue to operate as themes worthy of significant discussion across the centuries. The consideration of these themes within this dissertation further illuminates how such changes in the meaning of "truth" have evolved and how they should be read. Richard Firth Green's authoritative work, *A Crisis of Truth: Literature and Law in Ricardian England*, explores similar questions on the nature of honesty for the later medieval period. This dissertation, although written after Green's text, provides both the information on medieval Icelandic and Anglo-Saxon writings previously lacking for the early medieval period and the connections between law, literature, and the conceptualization of truth in the same works. Green's work indicates that, as the body of legal codes and literature grew throughout the Middle Ages, writers continued to address the gradations of "truth." Indeed, as the Middle English Romance *Athelston* shows, these important motifs continue to elaborate on the qualities of characters, increase tension within narratives, and ultimately drive the plot toward climax. King Athelston finds himself in the unenviable position of arbitrating between his two sworn brothers, one of whom is falsely accusing the other of treason. The innocent earl must swear an oath defending his honor and reinforced by his participation in an ordeal of fire. That oath is witnessed by the Archbishop of Canterbury, lending it further support. When the oath of the innocent earl is vindicated by the ordeal, the value of sworn testimony is reinforced.

Such literary occasions providing opportunities for deeper discussions of honesty abound in those works developing from prolific literary traditions, such as the Arthurian narratives, which find popularity among Old Norse and English readers. Here too we might see

⁴⁸³ The connections between law and literature discussed in this dissertation are explored in their later English roles in Jamie K. Taylor's new work *Fictions of Evidence: Witnessing, Literature, and Community in the Late Middle Ages* (Columbus, OH: Ohio State University Press, 2013).

parallel moments within the English and Icelandic fascination with honesty as a continued theme among later texts, especially as Arthurian stories involving betrayal and deception, like the legend of Tristan and Isolde, find their way into both cultures. Because this material provides authors of English and Norse traditions with so many rich opportunities, it is not surprising that the legal rituals surrounding honesty and deception serve as promising sources of literary tension. Ultimately, however, honesty is more than a vehicle for legal or literary production, it is a critical element in the success of the long-standing, Germanic tradition of associating honor with truth.

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